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A Guide To
**Employment
Standards**

EMPLOYMENT STANDARDS

Alberta's Employment Standards Code describes the minimum rights and obligations of employers and employees in a number of areas. These areas include rights and obligations related to payment of wages, hours of work and overtime pay, vacations and vacation pay, general holidays and general holiday pay, termination of employment and parental benefits.

MINIMUM WAGE

The minimum wage for students (under age 18 and still in school) is \$4.50/hour. The minimum wage for all other employees is \$5.00/hour.

Where employees show up for their shift at their employer's direction, they are entitled to a minimum wage of \$15.00 if less than three hours is worked. Students are entitled to a minimum wage of \$9.00 if less than two hours is worked.

Certain salespersons are entitled to receive \$200.00 per week. Their maximum work day is 12 hours long.

During a shift of five or more consecutive hours of work an employee is entitled to at least a 1/2 hour break, except where it is unreasonable or impossible. The break can be paid, or unpaid, at the employer's discretion.

An employer must allow employees at least one day of rest each week. The maximum number of consecutive days worked may not exceed 24,

at which point employees must receive four consecutive days off.

OVERTIME

All hours over eight in a day or 44 in a week (whichever is greater), are considered overtime. Overtime is paid out at time-and-a-half.

Employers and employees may also create their own written overtime agreement. Under this agreement, some or all overtime hours can be banked and taken as time off in lieu (hour for hour worked). Overtime can also be paid out at time-and-a-half if time off is not taken within three months.

VACATION PAY

After 12 consecutive months of employment, an employee is entitled to two weeks vacation leave, with pay.

The minimum wage for students (under age 18 and still in school) is \$4.50/hour. The minimum wage for all other employees is \$5.00/hour.

After five years, employees are entitled to three weeks leave with three weeks pay. Vacation pay is not calculated on overtime, general holiday pay or termination pay.

The first three months of employment is a probationary period. The employer or employee may end the relationship without written notice or pay during this period of time.

GENERAL HOLIDAY PAY

To qualify for general (statutory) holiday pay employees must:

- have worked 30 days in the preceding 12 months,
- have worked their last scheduled shift before and after the holiday, and
- not refuse to work on a holiday if asked to do so.

If all these conditions are met, and the holiday falls on what would be a normal work day, the employee is entitled to the day off with pay.

If qualified employees work on the holiday, they must be paid their regular wages plus time-and-a-half for all hours worked. The holiday can also be treated as a regular day of work and the employee given another working day off with pay.

If the holiday falls on what would be a normal day off for the employee and the employee does not work, there is no entitlement.

If the holiday is not a normal day of work, and the employee works, they are entitled to one-and-one-half times their hourly rate of pay.

NOTICE OF TERMINATION

The first three months of employment is a probationary period. The employer or employee may end the relationship without written notice or pay during this period of time.

The following written notice, or pay in place of notice, must be given by the employer after the following periods of employment:

- after three months and under two years of service = one week notice
- after two years and under four years = two weeks
- after four years and under six years = four weeks
- after six years and under eight years = five weeks
- after eight years and under 10 years = six weeks
- after 10 years = eight weeks

An employee must give written notice of termination after the following periods of employment:

- after three months and under two years of service = one week notice
- after two years = two weeks

(Note: there are some exceptions to the above provisions. Please contact your nearest Employment Standards office for more information.)

MATERNITY and ADOPTION LEAVE

A woman employed by an employer for at least 12 months is entitled to 18 weeks unpaid maternity leave. The leave may begin any time

during the 12 weeks before the estimated date of delivery.

Written notice must be given by the employee two weeks before beginning maternity leave and two weeks before returning to work from maternity leave.

A man or woman employed 12 months with an employer is entitled to eight weeks unpaid leave when adopting a child under the age of three.

CONTINUOUS EMPLOYMENT

Calculating the length of continuous employment is important in determining employment standards rights and obligations.

Employment is considered continuous and uninterrupted when a business, or part of it, is sold, leased, transferred or merged.

If an employee has been employed by the same employer more than once, and if the breaks of employment have been less than three months, it is considered one period of employment.

ADOLESCENTS and YOUNG PEOPLE

Adolescents (12 years to under 15 years old) may be employed as a delivery person for a retail store, a clerk or messenger in an office, or to deliver flyers, newspapers or handbills. The employer must obtain written consent from the parent or guardian. Adolescents cannot

work between 9 p.m. and 6 a.m.

Young persons (15 years to under 18 years old) may work alone until 9 p.m. in a retail business selling food or beverages, gas stations, motels or hotels.

After 9 p.m., young persons working in the above types of businesses must be in the continuous presence of an adult (18 years old). Young persons working in the above types of businesses may not work between midnight and 6 a.m.

Employment is considered continuous and uninterrupted when a business, or part of it, is sold, leased, transferred or merged.

FARM LABOURERS and DOMESTICS

Farm workers are entitled to their agreed wages, notice of termination of employment and parental benefits.

Domestics are entitled to their agreed wages, vacations and vacation pay, notice of termination of employment, parental benefits, and a day of rest.

WAGE RATE CHANGES

When employers wish to reduce employee wage rates, the overtime rate or other entitlements, employees must be informed before the pay period in which the change will become effective.

The Employment Standards Code does not distinguish between full-time, part-time, casual, permanent or temporary employees. All employees are treated equally under the Employment Standards Code and must be paid accordingly.

STATEMENT OF EARNINGS and DEDUCTIONS

Employees must receive a detailed written statement of earnings and deductions for them to keep, each pay period. This statement must include:

- regular and overtime hours worked,
- regular and overtime wage rates,
- wages and overtime paid,
- time off in place of overtime provided and time taken,
- vacation and general holiday pay,
- money paid in place of termination notice,
- amount and purpose of all deductions,
- the period of employment covered by the statement.

Employers may deduct:

- amounts permitted by the Employment Standards Code,
- federally legislated statutory deductions,
- a judgement order of a court,
- amounts personally authorized in writing by an employee.

Employers may not deduct:

- for faulty workmanship,
- for cash shortages, or
- for loss of property if more than one employee has access to the cash or property.

OTHER ISSUES

Self-employed persons, such as couriers who operate their own vehicles, independent sales agents, or professional consultants, do not fall within the jurisdiction of the Employment Standards Code.

The Employment Standards Code does not distinguish between **full-time, part-time, casual, permanent or temporary employees**. All employees are treated equally under the Employment Standards Code and must be paid accordingly.

The Employment Standards Code does not deal with **bereavement leave**. The employer decides whether bereavement leave is granted. If leave is granted, the employer decides if it is with or without pay.

There is no provincial legislation in Alberta dealing with **sick leave**. The employer must only pay for hours worked.

Benefit packages (which may include health care, dental insurance, life insurance, etc.) are provided at the discretion of the employer. They do not fall within the jurisdiction of the Employment Standards Code.

Alberta Labour, Employment Standards has no authority to request a **record of employment** (separation slip) from an employer. That document is under the federal jurisdiction of Human Resources Development Canada (U.I.C.).

MAKING A CLAIM: THE SELF-HELP KIT

Where an employee feels there is a claim against an employer, they should request payment from the employer in writing. This should be done before filing a claim with Employment Standards. To assist the claimant to make their own claim they are provided with a self-help kit. The self-help kit instructs claimants to forward a completed copy of the "request for payment" form to the employer. The claimant must keep the other completed copy of the request for payment form in case it becomes necessary to file a claim with Employment Standards.

The employee (claimant) must give the employer 10 days to respond to the written request for payment. If the employer doesn't respond, the claimant can return to the Employment Standards office and file a claim. The Employment Standards Code contains time limits to assist in resolving claims. In all cases, it is important that employees file complaints as soon as possible after the date they should have been paid or the date their employment ended.

INVESTIGATION PROCESS

After a complaint is filed, an Employment Standards Officer will contact the employer in an attempt to resolve the issue.

As part of the investigation process, an officer may:

- issue a notice to produce employment records to verify information on the complaint,
- negotiate a settlement,
- issue an Order of Officer requiring the employer to pay the claimant,
- deny the claim.

An Order of Officer may be appealed by either the employer or employee. If either party appeals the order, the appeal will be heard before a provincial court judge (umpire). If the employer does not appeal, but fails to pay the order, or if the employer does appeal and the appeal is denied by the umpire, the order can be filed with the Court of Queen's Bench. It will then be enforceable as an order or judgement of that court.

OTHER PROBLEMS

Alberta Labour, Employment Standards can help to resolve concerns of employers, employees and the general public. For information or assistance, contact your nearest Employment Standards office (see back page).

PUBLICATIONS

Copies of the Employment Standards Code, and Regulations Pursuant to the Employment Standards Code, may be purchased from:

Alberta Government Publication Services

11510 Kingsway Avenue
Edmonton, Alberta
T5G 2Y5
tel: 427-4952 fax: 452-0668

Main Floor, McDougall Centre
455 - 6 Street SW
Calgary, Alberta
T2P 4E8
tel: 297-6251 fax: 297-8450

For further information contact your nearest
Employment Standards office (see back page).

SOME FREQUENTLY CALLED NUMBERS

Human Resources Development Canada (U.I.C.)

Edmonton 497-2207
Calgary 292-4821

Revenue Canada (Source Deductions)

Edmonton 423-3510
Calgary 292-6477

Workers' Compensation Board

Edmonton 427-1131
Calgary 297-6471

Occupational Health and Safety (Alberta Labour)

Edmonton 427-8848
Calgary 297-2222
Red Deer 340-5170
Grande Prairie 538-5249

Labour Relations Board

Edmonton 427-8547
Calgary 297-4333

Labour Canada (Federal)

Edmonton 495-2993
Calgary 292-4566

Alberta Human Rights Commission

Edmonton 427-7661
Calgary 297-6571

NOTES

ALBERTA LABOUR

Employment Standards

Office Locations

Edmonton

101, 10339 - 124 Street
Edmonton, Alberta
T5N 3W1
tel: 427-3731 fax: 427-8837

Calgary

Main Floor, Elveden Centre
717 - 7 Avenue SW
Calgary, Alberta
T2P 0Z3
tel: 297-4339 fax: 297-5843

Red Deer

2nd floor, 4920 - 51 Street
Red Deer, Alberta
T4N 6K8
tel: 340-5153 fax: 340-5210

Grande Prairie

Room 3501, Provincial Building
10320 - 99 Street
Grande Prairie, Alberta
T8V 6J4
tel: 538-5253 fax: 538-5403

Lethbridge

Room 377, Provincial Building
200 - 5th Avenue S
Lethbridge, Alberta
T1J 4C7
tel: 381-5447 fax: 381-5425

Medicine Hat

Room 103, Provincial Building
346 - 3 Street SE
Medicine Hat, Alberta
T1A 0G7
tel: 529-3520 fax: 529-3632

St. Paul

Room 407, Provincial Building
5025 - 49 Avenue
St. Paul, Alberta
T0A 3A4
tel: 645-6360 fax: 645-6352

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PLEASE NOTE: This interpretive guide is only intended to provide a descriptive overview of the provisions of the Municipal Government Act and the Community Organization 1998 Property Tax Exemption Regulation affecting the property tax status of facilities held by non-profit organizations. The information is presented in summary form. For specifics, reference should be made to the Act and the Regulation.

1.0 Executive Summary

This interpretive guide has been prepared to help you understand the Community Organization 1998 Property Tax Exemption Regulation. It is also intended to assist you in applying the new Regulation's property tax exemption criteria to certain properties held by non-profit organizations in your municipality.

The key points to remember are as follows:

1. The new Regulation will not affect the **tax status** of the great majority of properties held by non-profit organizations. Nearly all exempt properties will remain exempt and most taxable properties will remain taxable.
2. The types of non-profit facilities specifically listed in section 14 of the new Regulation (arts facilities, museums, child care facilities, etc.) are mostly in a "grey area" - exempted by some municipalities, taxed by others. If your municipality already **exempts** such a **facility under section 362** of the Municipal Government Act (MGA), in most cases you can just continue the existing exemption. There is normally no need to make the non-profit organization holding the property apply for an exemption even if it is in a category listed in section 14.
3. If your municipality has been **exempting a facility** of a type specifically listed in section 14 of the new Regulation **under section 364** of the MGA, you should encourage the non-profit organization holding the property to apply for an exemption under section 14. Approving an exemption under the new Regulation would mean removing the property from your municipality's equalized assessment and its education property tax base. The municipality is responsible for the education requisition for properties exempted under section 364, but not for properties exempted under section 362.
4. If your municipality has been **taxing a facility** of a type specifically listed in section 14 of the new Regulation, you can leave it to the non-profit organization holding the property to apply for an exemption. If the non-profit organization does apply, the municipality must consider the application but does not need to approve it. Section 15 of the Regulation sets out many conditions, particularly that the municipality must be satisfied "that the operations of the non-profit organization on the property provide significant benefits." The determination of what constitutes significant benefit has been left as a matter of local judgement.
5. A **retail commercial area** in an exempt non-profit facility can be exempt even if it competes with a taxable business. To be exempt, the retail commercial

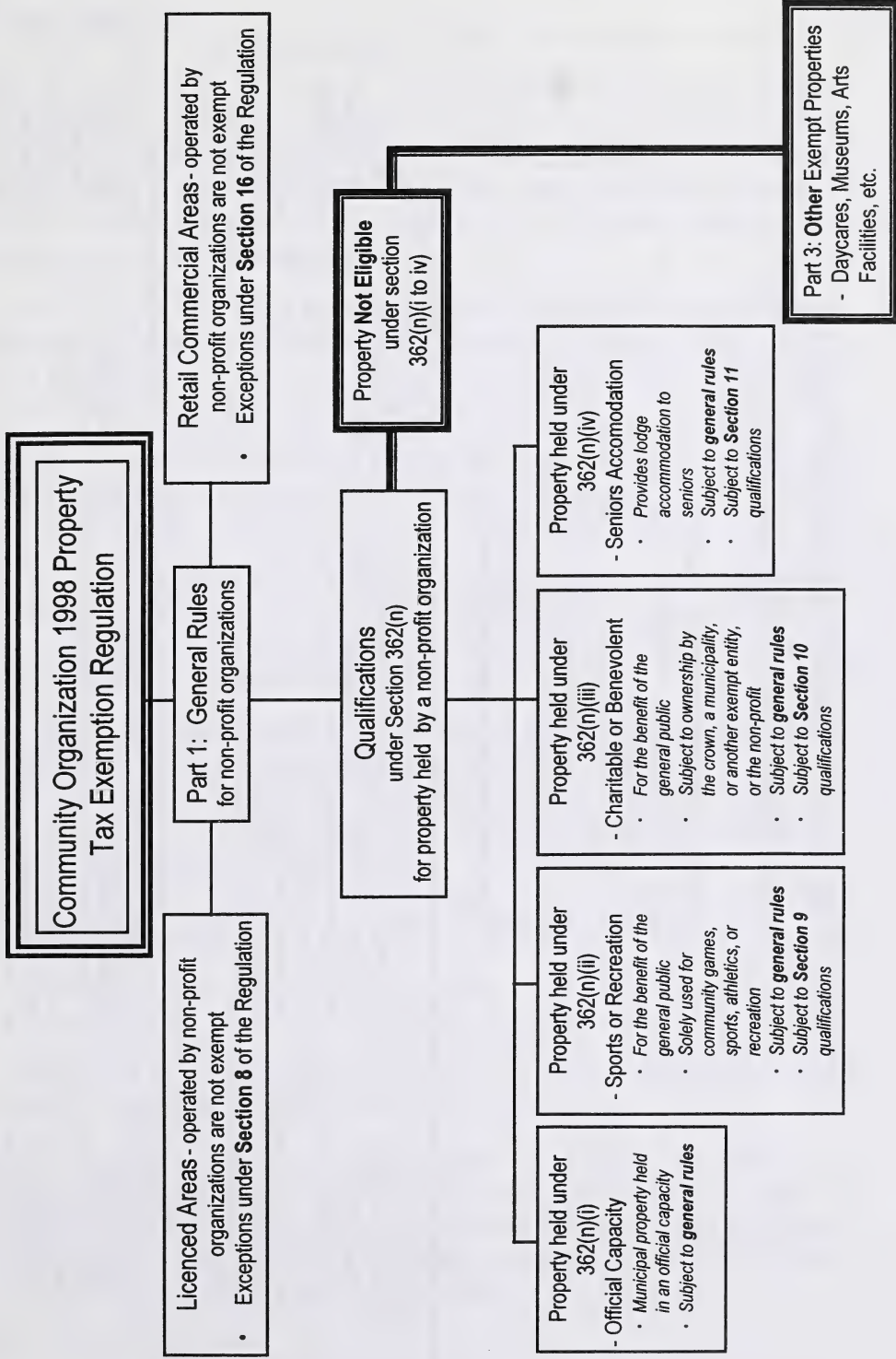
area must be held by and operated by the same non-profit organization that holds the exempt facility. As well, the net income from the retail commercial area must be used to pay all or part of the operational or capital costs of the facility or another exempt facility held by the non-profit organization.

6. The way to deal with **non-profit sports and recreation facilities** under the new Regulation can be summarized as follows:
 - A facility (like a swimming pool or ice arena) that is accessible to the public at least 70 percent of the time and is used by children (under 18) at least 60 percent of the time should be exempted under section 362(n)(ii) of the MGA.
 - A facility (like a golf course or curling rink) that is accessible to the public at least 70 percent of the time and is used by adults (18 and over) more than 40 percent of the time can be exempted under sections 14(a) and 15 of the Community Organization 1998 Property Tax Exemption Regulation.
 - A sports or recreation facility that does not meet the above criteria should remain taxable.
7. An exemption application for an **ethno-cultural association facility** used for sports, recreation, education, charitable or benevolent purposes should be considered under sections 14(g) and 15 of the new Regulation. In addition to the usual access conditions of section 15, these ethno-cultural facilities must meet the specific access conditions of section 14(g) of the Regulation (use of the property by the general public must be actively encouraged and there must be signage indicating the hours the facility is accessible).
8. The new Regulation only applies to 1998. This is because there will be legislative changes brought forward affecting non-profit exemptions in the spring session of the legislature. Municipal Affairs has made a commitment to consult with stakeholders in drafting a **long-term non-profit organization property tax exemption regulation** in 1998 so that it can be in place for 1999.

Further details (and caveats) on these and other issues addressed by the Community Organization 1998 Property Tax Exemption Regulation are provided in the main part of the interpretive guide. However, the **Property Exemption Flow Chart** on the following pages provides a graphic overview of the current non-profit exemptions and the exemption conditions.

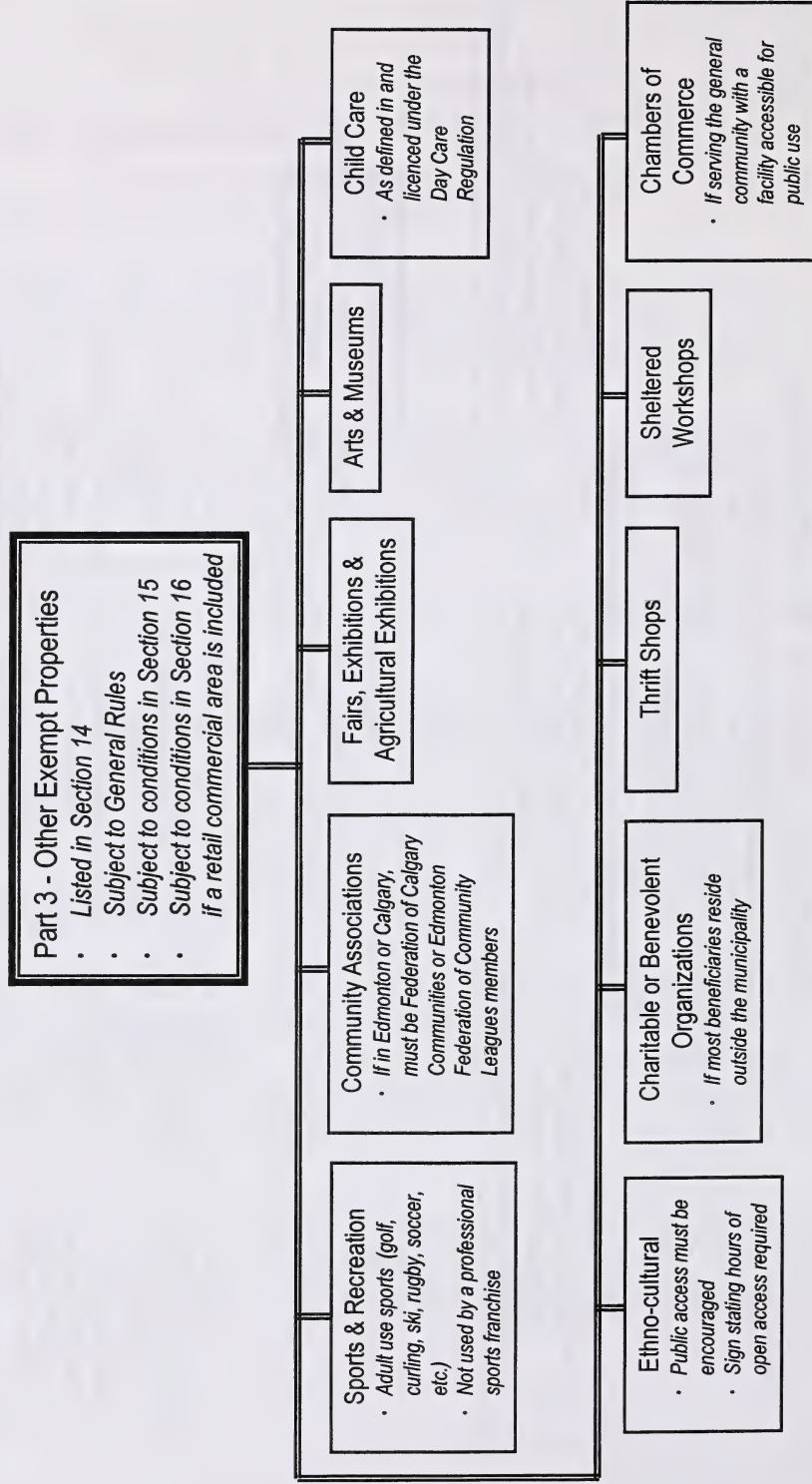
Property Exemption Flow Chart

- Section 362(n) Properties



Property Exemption Flow Chart

- Other Exempt Properties



2.0 Introduction

This guide has been prepared to help you understand the Community Organization 1998 Property Tax Exemption Regulation. It is also intended to assist you in applying the Regulation's property tax exemption criteria to certain properties held by non-profit organizations in your municipality. The guide is not intended to override or modify the provisions of the Municipal Government Act or the new Regulation; it is merely to aid in their interpretation and use.

It is important to understand that **the new Regulation will not affect the status of the vast majority of properties eligible for exemption in previous years.** There should be no need to conduct a wholesale review of the properties with existing exemptions under section 362(n) of the Municipal Government Act and the Non-Profit Organization Tax Exemption Regulation. However, a limited number of exempted properties may be affected by the new definitions and clarified rules in the Community Organization 1998 Property Tax Exemption Regulation (this is explained on page 3 of the guide).

The new Regulation does recognize additional property categories where the benefit to the community warrants an exemption from property taxes if various conditions are met. The text of the new Regulation is given in **Appendix A** and some explanatory notes are provided in **Appendix B**.

The new Regulation implements many but not all of the recommendations of the Non-Profit Tax Exemption Review Committee (as explained in **Appendix G**). Despite the similarities, it is the Community Organization 1998 Property Tax Exemption Regulation that governs non-profit property tax exemptions in 1998, **not** the Review Committee's report or its consultation paper.

2.1 Legislative Context

The authority for the Community Organization 1998 Property Tax Exemption Regulation is the Municipal Government Act (MGA). The MGA exempts property from taxation under **sections 351 and 361 to 365**. **Appendix E** contains an interpretation of those sections in the MGA that address issues relating to property tax and business tax exemptions.

As well, exemptions created before 1995 by **private acts and Local Authorities Board orders** remain in effect unless some or all of the affected properties in the municipality are made taxable through a municipal bylaw. Such a bylaw must meet the requirements of section 351 of the MGA and does not become effective until one year after it is passed.

Section 364 of the MGA grants a municipal government the authority to exempt any property held by a non-profit organization from taxation to any extent that the council feels is appropriate. A municipality could exempt either the municipal portion of property tax or the property tax as a whole, which would include the school requisition (education tax). However, a municipal decision to exempt properties under section 364 will **not** lead to any corresponding reductions in the amounts of the education and other requisitions the municipality must pay. A **municipal bylaw** under section 364 of the MGA must be passed to cover each property granted an exemption by the municipal council. **The Community Organization 1998 Property Tax Exemption Regulation should reduce but not eliminate the pressures on municipalities to use section 364.**

2.2 Municipal Government Act, Section 362(n)

Section 362(n) of the MGA addresses properties that are exempt from both municipal and education property taxes when held by a non-profit organization for eligible purposes. With two exceptions,¹ qualifying property must be used chiefly for charitable or benevolent purposes or solely for community games, sports, athletics, or recreational purposes. As well, with the same two exceptions, the property must be used for the benefit of the general public.

Section 362(n) and section 370(c) also allow the Minister to make regulations further qualifying which properties are exempt from property taxation under section 362(n). **These sections also allow the applicable regulation to designate other property held by non-profit groups as exempt from taxation under section 362(n).** Consequently, section 362(n) must be read together with the Community Organization 1998 Property Tax Exemption Regulation (which is otherwise known as Alberta Regulation (AR) 289/97).

3.0 Using the Community Organization 1998 Property Tax Exemption Regulation

The new Regulation was effective January 1, 1998. Property tax exemptions under section 362(n) of the MGA were previously subject to the Non-Profit Organization Tax Exemption Regulation (AR 125/95). Although it was repealed effective December 31, 1997, the Non-Profit Organization Tax Exemption Regulation still applies to appeals and other outstanding issues regarding 1997 tax exemptions.

¹ The exceptions are property owned by a municipality and held in an official capacity on behalf of the municipality, and property used to provide lodge accommodations to senior citizens.

3.1 Existing Exemptions and the New Regulation

The Community Organization 1998 Property Tax Exemption Regulation governs all section 362(n) exemptions from January 1 to December 31, 1998. However, **this Regulation will not affect the status of the vast majority of properties eligible for exemption in previous years.** There should be no need to conduct a general review of the properties with existing exemptions under section 362(n) of the Municipal Government Act and the Non-Profit Organization Tax Exemption Regulation.

However, it should be conceded that some exempted properties may be affected by certain provisions of the new Regulation. The **changes that might render previously exempt properties taxable** are quite limited and **can be summarized as follows:**

- (a) The new Regulation (the Community Organization 1998 Property Tax Exemption Regulation) defines more terms than the previous regulation (the Non-Profit Organization Tax Exemption Regulation). The new definitions of **“charitable or benevolent purpose”** and **“general public”** are straightforward and should not lead to any significant changes. However, the new Regulation has a narrower definition of **“non-profit organization”** than the previous regulation.
- (b) The new Regulation has a **“primarily used”** (60 percent of the time) test for exemptions while the previous regulation had a **“chiefly used”** (51 percent of the time) test and this could affect a few properties. As well, the new Regulation imposes a ceiling of **30 percent** on the amount of time access to an exempt facility can normally be restricted.
- (c) The new Regulation limits the section 362(n)(ii) exemption for **“community games, sports, athletics, or recreation”** to **facilities primarily (60 percent) used by children under 18.²** It also makes property used in the operation of a **professional sports franchise** proportionally **taxable**. These provisions will affect a number of properties.
- (d) The **access requirements** in the new Regulation are more specific than the previous regulation’s access requirements, and this could affect a few properties.

² However, sports and recreation facilities primarily used by adults can still be exempted, but they must be dealt with under sections 14(a) and 15 of the Community Organization 1998 Property Tax Exemption Regulation.

Appendix A provides more information on the specific provisions of the new Regulation and the changes from the Non-Profit Organization Tax Exemption Regulation.

3.2 How to Use the New Regulation

The Community Organization 1998 Property Tax Exemption Regulation probably appears complex, at least at first glance. In order to work through the application of the new Regulation, we would suggest the following approach:

- Does the main use meet the general conditions for a section 362(n) exemption?
- Where does the main use fit into the current exemption categories? The current categories are listed in sections 362(n)(i), 362(n)(ii), 362(n)(iii), and 362(n)(iv) of the Act and in sections 14 and 15 of the new Regulation.
- Does the facility meet the specific conditions, including the access conditions, set out in section 362(n) and the new Regulation for the applicable exemption category?
- If the facility qualifies for an exemption, do the related retail commercial areas (if any) meet the requirements of section 16 or (if a licenced facility) section 8 of the Regulation?

This process is outlined graphically in the **Property Exemption Flow Chart** in **Appendix D**. More detailed comments on the exemption requirements follow below.

Every facility to be exempted under section 362(n) must meet the following general conditions of Part 1 (General Rules) of the new Regulation:

- (a) The property (or part of a property)³ must be held by a non-profit organization. Section 5 of the new Regulation defines holding, and section 6 sets out the requirements to qualify as a non-profit organization.
- (b) The property (or part of a property)³ must be primarily used for an exempt purpose. The 60 percent use requirement is specified in section 4 of the new Regulation. On occasion a combination of related exempt uses may be required to reach the 60 percent use level.

³ Section 3 of the new Regulation specifies that a section 362(n) exemption applies only to the part of the property that qualifies for the exemption. However, the qualifying part could be 100 percent of the property.

However, there are more choices after this point, mainly because a non-profit facility might be able to qualify under more than one exemption provision. For example, assessment records show museums exempted under section 362(n)(i), section 362(n)(iii), and even under section 362(n)(ii). **Even with the Community Organization 1998 Property Tax Exemption Regulation it is still possible that some facilities will be able to qualify under more than one exemption provision**, and this should be kept in mind when deciding whether or not a non-profit facility can meet the eligibility conditions for an exemption.

Different exemption provisions mean different eligibility requirements. An exemption under section 15 of the new Regulation is subject to far more conditions than an exemption under section 362(n)(i) of the Municipal Government Act, for example. The following tables explain this situation further:

Table 1: Specific Requirements for an Exemption Under Section 362(n)(i) of the Act

Basic Requirements	The property must be owned by the municipality and held by the non-profit organization in an official capacity ⁴ on behalf of the municipality.
Access Requirements	None.
Other Requirements	Must meet the general rules of Part 1 of the Community Organization 1998 Property Tax Exemption Regulation (see page 4).
Examples	Visitor information centers, convention centers, exhibition facilities, showcase arts facilities.

⁴ Holding a property in an official capacity is not a formally defined concept. However, it is usually understood as controlling and operating a facility that represents or contributes to the image the community wants to present, and doing so in such a way that reflects well on the municipal government. As well, official capacity status will normally be stated or implied in the lease agreement.

**Table 2: Specific Requirements for an Exemption Under
Section 362(n)(ii) of the Act**

Basic Requirements	The property must be used solely for community games, sports, athletics, or recreation .
Access Requirements	Must meet the access requirements of section 9(2) of the Community Organization 1998 Property Tax Exemption Regulation - access is to be unrestricted 70 percent of the time. ⁵
Other Requirements	<p>Must meet the general rules of Part 1 of the new Regulation (see page 4).</p> <p>Must meet the following requirements of section 9 of the new Regulation:</p> <ul style="list-style-type: none"> • the property cannot generally be used in the operation of a professional sports franchise,⁶ and • adults (people 18 or older) cannot be the majority of those participating in the activities for more than 40 percent of the time.⁷
Examples	Parks, playgrounds, swimming pools, ice arenas, community halls.

⁵ The access conditions of section 9(2) require access to be unrestricted (except for age restrictions) 70 percent of the time. Restricted access is defined in section 7 of the new Regulation and does not include "minor" entrance, service or membership fees. "Minor" is not defined, but should be at or below the cost recovery level, and cannot be at a level that would bar a significant number of would-be users.

⁶ If the property is used for this purpose, it is taxable to the extent it is used in the operation of the professional sports franchise.

⁷ The restriction on use by adults is a restriction on the actual participants in the sports or recreation activities, not a restriction on the spectators. Exemptions for sports or recreation facilities mainly used by adults should be dealt with under sections 14(a) and 15 of the Community Organization 1998 Property Tax Exemption Regulation.

**Table 3: Specific Requirements for an Exemption Under
Section 362(n)(iii) of the Act**

Basic Requirements	The property must be used for a charitable or benevolent purpose and must be owned by a non-profit organization, the Crown, a municipality, or another exempt body.
Access Requirements	Must meet the access requirements of section 10(2) of the Community Organization 1998 Property Tax Exemption Regulation - access is to be unrestricted 70 percent of the time. ⁸
Other Requirements	<p>Must meet the general rules of Part 1 of the new Regulation (see page 4).</p> <p>Must meet the following requirements of section 10 of the new Regulation:</p> <ul style="list-style-type: none"> • the charitable and benevolent purpose must benefit the general public in the local community,⁹ and • the resources of the non-profit organization must be directed chiefly to the purpose the property is used for.
Examples	Blood banks, food banks, shelters for the homeless, drop-in centers, concert halls, museums.

⁸ The access conditions of section 10(2) require access to be unrestricted 70 percent of the time. Restricted access is defined in section 7 of the new Regulation and does not include "minor" entrance, service or membership fees. "Minor" is not defined, but should be at or below the cost recovery level, and cannot be at a level that would bar a significant number of would-be users.

⁹ The necessary level of benefit to the general public in the community to qualify for an exemption is a matter of local judgement.

Table 4: Specific Requirements for an Exemption Under Section 362(n)(iv) of the Act

Basic Requirements	The property must be used to provide lodge accommodation to senior citizens. ¹⁰
Access Requirements	None.
Other Requirements	Must meet the general rules of Part 1 of the new Regulation (see page 4). Must meet the requirements of section 11 of the new Regulation, which means that the facility must be receiving a provincial operating subsidy to qualify. ¹¹
Examples	Senior citizen lodges.

Table 5: Specific Requirements for an Exemption Under Sections 14 and 15 of the New Regulation

Basic Requirements	The facility must be listed in section 14 and the non-profit organization must apply to the municipality for the exemption.
Access Requirements	Normally access must be unrestricted 70 percent of the time. ¹² Some service-oriented facilities may have more limited access, ¹³ and there are very specific access requirements for ethno-cultural groups. ¹⁴

continued on next page

¹⁰ In lodge accommodation the residents rely on communal meal facilities and support services provided by the facility (normally housekeeping, linen, and security services, and sometimes medication assistance services) rather than living independently.

¹¹ The additional exemptions recommended by the Non-Profit Tax Exemption Review Committee will not be brought in during 1998. There is a need for discussions with the non-profit groups operating these facilities and the affected municipalities about how best to implement the Review Committee's recommendations. Municipal Affairs will continue paying grants in place of taxes for qualifying seniors housing facilities in 1998.

¹² The access conditions of section 15(2) require access to be unrestricted 70 percent of the time. Restricted access is defined in section 7 of the new Regulation and does not include "minor" entrance, service or membership fees. "Minor" is not defined, but should be at or below the cost recovery level, and cannot be at a level that would bar a significant number of would-be users.

¹³ Under section 15(3), discrimination on the basis of race, culture, ethnic origin, or religious belief is not permitted, but access may be limited to people with particular characteristics (in terms of age, health, income, etc.) and needs in the use of child care facilities, charities with few or no local beneficiaries, thrift shops, or sheltered workshops.

¹⁴ In addition to the usual conditions of section 15(2), ethno-cultural facilities used for sports, recreation, education, charitable or benevolent purposes must meet the specific access conditions of section 14(g) of the new Regulation. This section requires that use of the property by the general public must be actively encouraged and there must be signage indicating the hours the facility is accessible.

Table 5: Specific Requirements for an Exemption Under Sections 14 and 15 of the New Regulation (continued)

Other Requirements

Must meet the general rules of Part 1 of the new Regulation (see page 4).

Must meet the applicable **section 15** requirements:

- the **application deadline** is April 30¹⁵ and supporting information required by the municipality is due a month later,
- the facility must be operated on a non-profit basis,
- the **municipality can require** that the facility **not provide significant competition with a taxable business**, that the organization's funds be chiefly used for the purposes of the organization, and that the municipality be **satisfied that the operations of the non-profit organization on the property provide significant benefits**,¹⁶
- the exemption may also be subject to an **agreement on providing information** on the non-profit organization's compliance with the exemption requirements,¹⁷ and
- if the non-profit organization owns the property, the municipality could even require an **agreement on the disposition of the property**.¹⁷

Examples

Golf courses, curling rinks, arts facilities, museums, child care facilities,¹⁸ thrift shops,¹⁸ sheltered workshops,¹⁸ certain other charitable facilities,¹⁸ ethno-cultural facilities.¹⁹

¹⁵ However, this application deadline can be waived by the municipality.

¹⁶ The necessary level of benefit to the general public in the community to qualify for an exemption is a matter of local judgement.

¹⁷ It is up to the municipality to decide whether or not it will require this agreement.

¹⁸ Under section 15(3), discrimination on the basis of race, culture, ethnic origin, or religious belief is not permitted, but access may be limited to people with particular characteristics (in terms of age, health, income, etc.) and needs in the use of child care facilities, charities with few or no local beneficiaries, thrift shops, or sheltered workshops.

¹⁹ In addition to the usual conditions of section 15(2), ethno-cultural facilities used for sports, recreation, education, charitable or benevolent purposes must meet the specific access conditions of section 14(g) of the new Regulation. This section requires that use of the property by the general public must be actively encouraged and there must be signage indicating the hours the facility is accessible.

The examples cited in the preceding tables confirm that different assessors can and do place similar facilities in different exemption categories. We do not view one assessor deciding to exempt a non-profit facility under section 362(n)(i) and another deciding to exempt a similar facility under section 362(n)(iii) as a major problem; however, one assessor deciding to exempt a non-profit facility under section 362(n)(iii) and another assessor deciding not to exempt a similar facility at all is a definite concern. The concern of the Non-Profit Tax Exemption Review Committee (which recommended many of the changes reflected in the new Regulation) is to achieve more consistency in terms of **what is being exempted and what is not being exempted**.

The **key purposes** of Part 3 (sections 12 - 16) of the new Regulation are as follows:

- (a) **to clarify that the types of facilities listed in section 14 should normally be exempt** (but subject to section 15(1)(e) and the other requirements of section 15 of the new Regulation);
- (b) **to allow the exemption of properties similar to those now exempted under section 362(n)(ii) or (n)(iii) of the MGA** that do not meet the ownership requirement of section 362(n)(iii) or the “used solely” requirement of section 362(n)(ii); and
- (c) **to put the onus on the non-profit groups seeking tax exemptions to identify their potentially eligible facilities** to the municipality if they want exemptions for them. The municipal assessors can then review the applications rather than having to identify all the potentially exempt properties. Sample application forms are shown in **Appendix C**.

However, there are **two other issues** regarding using the new Regulation that you should keep in mind:

- **An exemption application for a sports or recreation facility mainly used by adults should be considered under sections 14(a) and 15** of the Community Organization 1998 Property Tax Exemption Regulation. Such a facility would have to meet the conditions of section 15 (although the municipality can decide whether or not to impose many of these conditions). The requirements are the same as outlined in the table on sections 14 and 15 exemptions (see pages 8 and 9), including the access requirements. The requirement for unrestricted access 70 percent of the time means that any fees must be **minor**, which may well be an issue with certain golf courses and some other sports or recreation facilities. **The key**

difference between an accessible non-profit facility and a restrictive private club is often in the membership or admission fees.

- As well, an **exemption application for an ethno-cultural association facility used for sports, recreation, education, charitable or benevolent purposes should be considered under sections 14(g) and 15** of the new Regulation (see pages 8 and 9). In addition to the usual conditions of section 15, these ethno-cultural facilities must meet the specific access conditions of section 14(g) of the Regulation (use of the property by the general public must be actively encouraged and there must be signage indicating the hours the facility is accessible).

3.3 Property Examples

A number of property types and their usual tax status (including the legislative authority) **are listed in Table 6.** To assist assessors and other affected parties, a detailed process for reviewing an example property and determining its tax status is explained in **Appendix D.** Relevant Municipal Government Board decisions on property tax exemption issues are given in **Appendix F.**

**Table 6: Examples of Properties that May be Considered for
Exemption Under Sections 362 and 363 of the Municipal Government Act**

SUBJECT	OWNERSHIP C - CROWN M - MUNICIPAL NP - NON-PROFIT P - PRIVATE	HELD BY C - CROWN M - MUNICIPAL NP - NON-PROFIT P - PRIVATE	RELEVANT MGA SECTION	USUAL STATUS (Watch for Exceptions)	THE FOLLOWING MAY BE APPLICABLE IN DETERMINING A POSSIBLE EXEMPTION (See below)
Agricultural society	C, M, NP	NP	362(i)	Tax exempt	
Al Azhar Temple	C, M, NP, P	NP		Taxable	5, 9
Army, Navy & Air Force Veterans Club	M, NP, P	NP	363(1)(c)	Tax exempt	8, licensed premises taxable
Banff Centre for Continuing Education	C	C	362(d)(v)	Tax exempt	
Boy Scouts	C, M, NP	NP	362(n)(iii)	Tax exempt	1, 2, 3, 5
Cemeteries	C, NP, P	C, NP, P	362(l)	Tax exempt	
Chamber of Commerce	M, NP, P	NP	362(n)	Tax exempt	3, 6, 9
Charitable Institutions	M, NP	NP	362(n)(iii)	Tax exempt	1, 2, 3, 5, 9
Children's Aid Society	M, NP	NP	362(n)(iii)	Tax exempt	1, 5
Churches	M, NP, P	NP	362(k)	Tax exempt	
Colleges	C, NP, P	NP	362(d)(i)(C)	Tax exempt	If under Colleges Act
Community hall	M C, M, NP	M NP	362(b) 362(n), (n)(ii)	Tax exempt Tax exempt	2, 3, 4, 6, 9
Curling rinks	M, NP, P NP, P	NP NP, P	362(n)	Tax exempt Taxable	1, 2, 3, 4, 6, 9 NP taxable if access restricted

continued on next page

NOTES (parenthesized section numbers refer to Community Organization 1998 Property Tax Exemption Regulation sections):

- | | | |
|--|---|--|
| 1. Primary use of property 362(n)(iii),(iv), (sec 4) | 2. Holding the property (sec 5) | 3. Non-profit organizations (sec 6) |
| 4. Exemptions under 362(n)(ii), (sec 9) | 5. Exemptions under 362(n)(iii), (sec 10) | 6. Specifically exempt property (sec 14) |
| 7. Liquor licence (sec 8) | 8. By-law to make taxable possible | 9. Access (sec 7) |

**Table 6: Examples of Properties that May be Considered for
Exemption Under Sections 362 and 363 of the Municipal Government Act (continued)**

SUBJECT	OWNERSHIP C - CROWN M - MUNICIPAL NP - NON-PROFIT P - PRIVATE	HELD BY C - CROWN M - MUNICIPAL NP - NON-PROFIT P - PRIVATE	RELEVANT MGA SECTION	USUAL STATUS (Watch for Exceptions)	THE FOLLOWING MAY BE APPLICABLE IN DETERMINING A POSSIBLE EXEMPTION (See below)
Daycare	C, M, NP, P	NP	362(n)	Tax exempt	6
	P	P		Taxable	
Ducks Unlimited	C	NP	363(1)(a)	Tax exempt	8, only if under lease, licence or permit
Educational institutions	C, NP, P, School Board	C, NP, P, School Board	362(c), (d)	Tax exempt	P exempt only if registered under the School Act
Exhibition Facilities	M, NP, P	NP	362(i), (n)	Tax exempt	2, 3, 6, 9
Ethno-cultural association	M, NP, P	NP	362(n)	Tax exempt	1, 2, 3, 6, 9
	NP, P	NP, P		Taxable	NP taxable if access restricted
Fairs	M, NP, P	NP	362(i), (n)	Tax exempt	2, 3, 6, 9
Food bank	M, NP	NP	362(n)(iii)	Tax exempt	1, 2, 3, 5
Girl Guides	C, M, NP	NP	362(n)(iii)	Tax exempt	1, 2, 3, 5
Golf courses	C, M, NP, P	NP, M	362(n)	Tax exempt	1, 2, 3, 4, 6, 9
	NP, P	NP, P		Taxable	NP taxable if access restricted
Graduate student association	NP, P	NP	362(d)(iii)	Tax exempt	
Health unit	C, M, NP, P	NP	362(g)	Tax exempt	
Hospitals	C, M, NP, P	C, NP	362(e)	Tax exempt	
	P	P		Taxable	
Hostelling (Northern/Southern Districts)	NP	NP	363(1)(b)	Tax exempt	8

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NOTES (parenthesized section numbers refer to Community Organization 1998 Property Tax Exemption Regulation sections):

- | | | |
|--|---|--|
| 1. Primary use of property 362(n)(iii),(iv), (sec 4) | 2. Holding the property (sec 5) | 3. Non-profit organizations (sec 6) |
| 4. Exemptions under 362(n)(ii), (sec 9) | 5. Exemptions under 362(n)(iii), (sec 10) | 6. Specifically exempt property (sec 14) |
| 7. Liquor licence (sec 8) | 8. By-law to make taxable possible | 9. Access (sec 7) |

**Table 6: Examples of Properties that May be Considered for
Exemption Under Sections 362 and 363 of the Municipal Government Act (continued)**

SUBJECT	OWNERSHIP C - CROWN M - MUNICIPAL NP - NON-PROFIT P - PRIVATE	HELD BY C - CROWN M - MUNICIPAL NP - NON-PROFIT P - PRIVATE	RELEVANT MGA SECTION	USUAL STATUS (Watch for Exceptions)	THE FOLLOWING MAY BE APPLICABLE IN DETERMINING A POSSIBLE EXEMPTION (See below)
Ice arenas	C, M, NP	M	362(b), (n)(ii)	Tax exempt	2, 3, 4
	C, M, NP	NP	362(n), (n)(ii)	Tax exempt	2, 3, 4, 6, 9
	P	P		Taxable	
Kinsmen Club	NP	NP		Taxable	5, 9
Knights of Columbus	NP	NP		Taxable	5, 9
Leased by the municipality	C, M, NP, P	M	362(b)	Tax exempt	
Library	C, M, NP	C	362(j)	Tax exempt	
Licensed premises licensed under Liquor Act	C, M, NP, P	NP	365(2)	Tax exempt	7, only if the conditions of section 8 of the regulation are met
	C, M, NP, P	C, M, NP, P	365(1)	Taxable	7
Lions Club	NP	NP		Taxable	5, 9
Loyal Order of Moose	NP	NP		Taxable	5, 9
Municipal airport	C	M	362(o)	Tax exempt	
Municipal property	C	M	362(b)	Tax exempt	Exceptions listed under section 362(b)(i) - (v)
Municipal seed cleaning plant ²⁰	M, NP	NP	362(p)	Tax exempt	Land taxable, 2/3 improvement exempt

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²⁰ The Agricultural Service Board Act consequentially amended the MGA in June 1997 to repeal the exemption for seed cleaning plants. The proposed 1998 MGA amendments include the reinstatement of this section (retroactive to the date of repeal).

NOTES (parenthesized section numbers refer to Community Organization 1998 Property Tax Exemption Regulation sections):

- | | | |
|---|---|--|
| 1. Primary use of property 362(n)(iii), (iv), (sec 4) | 2. Holding the property (sec 5) | 3. Non-profit organizations (sec 6) |
| 4. Exemptions under 362(n)(ii), (sec 9) | 5. Exemptions under 362(n)(iii), (sec 10) | 6. Specifically exempt property (sec 14) |
| 7. Liquor licence (sec 8) | 8. By-law to make taxable possible | 9. Access (sec 7) |

**Table 6: Examples of Properties that May be Considered for
Exemption Under Sections 362 and 363 of the Municipal Government Act (continued)**

SUBJECT	OWNERSHIP C - CROWN M - MUNICIPAL NP - NON-PROFIT P - PRIVATE	HELD BY C - CROWN M - MUNICIPAL NP - NON-PROFIT P - PRIVATE	RELEVANT MGA SECTION	USUAL STATUS (Watch for Exceptions)	THE FOLLOWING MAY BE APPLICABLE IN DETERMINING A POSSIBLE EXEMPTION (See below)
Museums	C	C	362(a)	Tax exempt	
	C, M	M	362(b)	Tax exempt	
	M	NP	362(n), (n)(i)	Tax exempt	1, 2, 3, 5, 6, 9
	NP	NP	362(n), (n)(iii)	Tax exempt	1, 2, 3, 5, 6, 9
Nursing homes	C, M, NP	C, NP	362(h)	Tax exempt	
	P	P	362(h)	Tax exempt	
Public swimming pool	C	C	362(a)	Tax exempt	
	M	M	362(b)	Tax exempt	
	M	NP	362(n), (n)(ii)	Tax exempt	2, 3, 4, 6, 9
Regional services commission	NP	NP	362(f)	Tax exempt	
Royal Canadian Legion	NP	NP	363(1)(c)	Tax exempt	8, licensed premises taxable
Schools	C, NP, P, School Board	C, NP, P, School Board	362(c)	Tax exempt	P exempt only if registered under the School Act
Seniors' lodge accommodation	M, NP	NP	362(m), (n)(iv)	Tax exempt	If held under the Alberta Housing Act or subsidized, 1, 2, 3
Seniors' recreation	NP	NP	362(n)	Tax exempt	2, 3, 6
	P	P		Taxable	
Seniors' self- contained units	NP	NP		Taxable	
	P	P		Taxable	
Sheltered Workshops	M, NP, P	NP	362(n), (n)(iii)	Tax exempt	1, 5, 6
Ski facilities	C, M, NP, P	NP	362(n)	Tax exempt	1, 2, 3, 4, 6, 9
	C, M, P	P		Taxable	

continued on next page

NOTES (parenthesized section numbers refer to Community Organization 1998 Property Tax Exemption Regulation sections):

- | | | |
|--|---|--|
| 1. Primary use of property 362(n)(iii),(iv), (sec 4) | 2. Holding the property (sec 5) | 3. Non-profit organizations (sec 6) |
| 4. Exemptions under 362(n)(ii), (sec 9) | 5. Exemptions under 362(n)(iii), (sec 10) | 6. Specifically exempt property (sec 14) |
| 7. Liquor licence (sec 8) | 8. By-law to make taxable possible | 9. Access (sec 7) |

**Table 6: Examples of Properties that May be Considered for
Exemption Under Sections 362 and 363 of the Municipal Government Act (continued)**

SUBJECT	OWNERSHIP C - CROWN M - MUNICIPAL NP - NON-PROFIT P - PRIVATE	HELD BY C - CROWN M - MUNICIPAL NP - NON-PROFIT P - PRIVATE	RELEVANT MGA SECTION	USUAL STATUS (Watch for Exceptions)	THE FOLLOWING MAY BE APPLICABLE IN DETERMINING A POSSIBLE EXEMPTION (See below)
Sports/recreation facilities	M	M	362(b)	Tax exempt	
	M, NP	NP	362(n), (n)(ii)	Tax exempt	1, 2, 3, 4, 6, 9
	NP, P	NP, P		Taxable	NP taxable if access restricted
Student dormitories	NP, P	NP, P	363(1)(d)	Tax exempt	8
Summer camp - non-profit	C, M, NP, P	NP	362(n)(ii)	Tax exempt	1, 2, 3, 4
Technical institutes	C, NP, P	C, NP, P	362(d)(i)(B)	Tax exempt	
Theatre	M, NP, P	NP	362(n)	Tax exempt	1, 2, 3, 4, 5, 6, 9
	P	P		Taxable	
Thrift Shops	M, NP, P	NP	362(n)	Tax exempt	1, 5, 6
Universities	C, NP, P	C, NP, P	362(d)(i)(A)	Tax exempt	
	C, NP, P	P		Taxable	If on-campus facilities used for a commercial purpose.

NOTES (parenthesized section numbers refer to Community Organization 1998 Property Tax Exemption Regulation sections):

- | | | |
|--|---|--|
| 1. Primary use of property 362(n)(iii),(iv), (sec 4) | 2. Holding the property (sec 5) | 3. Non-profit organizations (sec 6) |
| 4. Exemptions under 362(n)(ii), (sec 9) | 5. Exemptions under 362(n)(iii), (sec 10) | 6. Specifically exempt property (sec 14) |
| 7. Liquor licence (sec 8) | 8. By-law to make taxable possible | 9. Access (sec 7) |

3.4 Retail Commercial and Licenced Areas

A major difference between the Community Organization 1998 Property Tax Exemption Regulation and the former Non-Profit Organization Tax Exemption Regulation is in the treatment of retail areas. **Under the new Regulation, property (or part of a property) that competes with a taxable business can be exempt from taxation.**

If the primary use of the property is approved for an exemption, then **any retail commercial area in the facility is also exempt if it meets the**

requirements of section 16 of the new Regulation. To be exempt, the retail commercial area must meet the following two requirements:

- (a) It must be **held by and operated** by the same non-profit organization that holds the exempt facility.
- (b) The **net income** from the retail commercial area must be used to pay all or part of the operational or capital costs of an exempt facility held by the non-profit organization.²¹

An area with a liquor licence in an exempt facility is exempt only if it meets the requirements of section 8. This means two things:

- Firstly, the liquor licence must be a **Class C licence** (restricted to members and guests or residents and guests only) or a **special event liquor licence** (for weddings, banquets, etc., where there is bar service). Special event liquor licences used to be classified as private resale permits or private non-sale permits under the former Liquor Administration Regulation.²²
- Secondly, the licensed area can **only** be in a facility that is exempt under section **362(n)(ii)** or section **362(n)(iii)** of the MGA. To be more specific, this means a facility used for community sports or recreation which meets the requirements of section 9 of the Community Organization 1998 Property Tax Exemption Regulation (see page 6) or a facility used for charitable or benevolent purposes which meets the requirements of section 10 of the Regulation (see page 7).

Changes are planned to implement the recommendations of the Non-Profit Tax Exemption Review Committee to broaden the present exemption provisions somewhat, but these changes cannot occur without the legislation being amended. The future plans for a long-term non-profit organization property tax exemption regulation are outlined in **Appendix G**.

²¹ Normally the exempt facility is the same one the retail commercial area is located in, but the retail commercial area's net income can also be used to pay all or part of the operational or capital costs of any other facility that is held by the non-profit organization and that is exempt from taxation under section 362 of the Act or section 15 of the new Regulation.

²² Under the present wording of the Municipal Government Act and the Gaming and Liquor Act, the exemption does **not** extend to any area in a non-profit facility that is subject to any gaming licence (even if only to hold the occasional bingo). As well, the exemption does not extend to any area in a non-profit facility that is subject to a Class C or special event liquor licence if it is exempted under any part of section 362(n) other than 362(n)(ii) or 362(n)(iii). Such facilities should be taxed in proportion to their use for licensed purposes.

4.0 **Inquiries**

Please note that this interpretive guide is only intended to provide a descriptive overview of the legislation and the Community Organization 1998 Property Tax Exemption Regulation as they affect the property tax status of facilities held by non-profit organizations. The information is presented in summary form. For specifics, reference should be made to the Municipal Government Act and the Regulation.

However, Darryl Menzak of the Assessment Services Branch can answer questions and provide additional clarification regarding the Community Organization 1998 Property Tax Exemption Regulation. He can be reached by calling 422-1377 or by fax at 422-3110.

Appendix A:

Text of the Community Organization 1998 Property Tax Exemption Regulation (AR 289/97)

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Repeal	17
Interpretation	1(1) In this Regulation, (a) "Act" means the <i>Municipal Government Act</i> ; (b) "charitable or benevolent purpose" means the relief of poverty, the advancement of education, the advancement of religion or any other purpose beneficial to the community;

(c) "general public" means pertaining to the general community, rather than a group with limited membership or a group of business associates;

(d) "professional sports franchise" means a professional sports franchise operating in the National Hockey League, the Canadian Football League, the National Professional Soccer League or the Pacific Coast League;

(e) "taxation" means taxation under Division 2 of Part 10 of the Act.

(2) The definitions in sections 1 and 284 of the Act apply to this Regulation.

PART 1

GENERAL RULES

Application	2 This Regulation applies to taxation in 1998.
Part of a property	3 An exemption under section 362(n)(i) to (iv) of the Act or Part 3 of this Regulation applies only to the part of a property that qualifies for the exemption.
Primary use of property	4(1) Property is not exempt from taxation under section 362(n)(iii) or (iv) of the Act or Part 3 of this Regulation unless the property is primarily used for the purpose or use described in those provisions. (2) For the purpose of this Regulation, a property is primarily used for a purpose or use if the property is used for the specified purpose or use at least 60% of the time that the property is in use.
Holding property	5 When section 362(n)(i) to (iv) of the Act or Part 3 of this Regulation exempts property from taxation if a non-profit organization holds that property, the property is not exempt unless (a) the organization is the owner of the property and the property is not subject to a lease, licence or permit, or (b) the organization holds the property under a lease, licence or permit.
Non-profit organization	6 When section 362(n)(i) to (iv) of the Act or this Regulation exempts property from taxation if a non-profit organization holds the property, the property is not exempt unless

- (a) the organization is a society incorporated under the *Societies Act*, or
- (b) the organization is
 - (i) a corporation incorporated in any jurisdiction, or
 - (ii) any other entity established under a federal law or law of Alberta
 that is prohibited, by the laws of the jurisdiction governing its formation or establishment, from distributing income or property to its shareholders or members during its existence.

Meaning of restricted

7(1) In this Regulation, a reference to the use of property being restricted means, subject to subsections (2) and (3), that individuals are restricted from using the property on any basis, including a restriction based on

- (a) race, culture, ethnic origin or religious belief,
- (b) the ownership of property,
- (c) the requirement to pay fees of any kind, other than minor entrance or service fees, or
- (d) the requirement to become a member of an organization.

(2) The requirement to become a member of an organization does not make the use of the property restricted so long as

- (a) membership in the organization is not restricted on any basis, other than the requirement to fill out an application and pay a minor membership fee, and
- (b) membership occurs within a short period of time after any application or minor fee requirement is satisfied.

(3) Not permitting an individual to use a property for safety or liability reasons or because the individual's use of the property would contravene a law does not make the use of the property restricted.

Liquor licences

8 For the purposes of section 365(2) of the Act, property in respect of which a Class C liquor licence or a special event licence is issued under the *Gaming and Liquor Regulation* (AR 143/96) is exempt from taxation if

- (a) the property is held by a non-profit organization and used solely for community games, sports, athletics or recreation for the benefit of the general public and meets the requirements of section 9 of this Regulation, or

- (b) the property is used for a charitable or benevolent purpose that is for the benefit of the general public, meets the ownership requirements of section 362(n)(iii) of the Act and meets the requirements of section 10 of this Regulation.

PART 2

QUALIFICATIONS FOR EXEMPTIONS UNDER SECTION 362(n)(ii) TO (iv)

Exemption
under section
362(n)(ii) of the
Act

9(1) The following property is not exempt from taxation under section 362(n)(ii) of the Act:

- (a) property to the extent that it is used in the operation of a professional sports franchise;
- (b) property that is used solely for community games, sports, athletics or recreation if, for more than 40% of the time that the property is in use, the majority of those participating in the activities are 18 years of age or older.

(2) Property is not exempt from taxation under section 362(n)(ii) of the Act if, for more than 30% of the time that the property is in use, the use of the property is restricted within the meaning of section 7.

(3) Subsection (2) does not apply to the restriction referred to in subsection (1)(b).

Exemption
under section
362(n)(iii) of the
Act

10(1) Property referred to in section 362(n)(iii) of the Act is not exempt from taxation unless

- (a) the charitable or benevolent purpose for which the property is primarily used is a purpose that benefits the general public in the community in which the property is located, and
- (b) the resources of the non-profit organization that holds the property are devoted chiefly to the charitable or benevolent purpose for which the property is used.

(2) Property is not exempt from taxation under section 362(n)(iii) of the Act if, for more than 30% of the time that the property is in use, the use of the property is restricted within the meaning of section 7.

Exemption
under section
362(n)(iv) of the
Act

11 Property referred to in section 362(n)(iv) of the Act is not exempt from taxation unless the accommodation provided to senior citizens is subsidized accommodation as defined in the *General Regulation* (AR 213/94).

PART 3

OTHER PROPERTY EXEMPT UNDER SECTION 362(n)

Definitions

12 In this section,

- (a) "arts" means theatre, literature, music, painting, sculpture or graphic arts and includes any other similar creative or interpretive activity;
- (b) "chamber of commerce" means a chamber of commerce that is a non-profit organization and is a member of the Alberta Chamber of Commerce;
- (c) "community association" means an organization where membership is voluntary, but restricted to residents of a specific area, and that is formed for the purpose of
 - (i) enhancing the quality of life for residents of the area or enhancing the programs, public facilities or services provided to the residents of the area, or
 - (ii) providing non-profit sporting, educational, social, recreational or other activities to the residents of the area;
- (d) "ethno-cultural association" means an organization formed for the purpose of serving the interests of a community defined in terms of the cultural, ethnic, national or linguistic origins or interests of its members;
- (e) "museum" means a facility that is established for the purpose of conserving, studying, interpreting, assembling and exhibiting, for the instruction and enjoyment of the general public, art, objects or specimens of educational and cultural value or historical, technological, anthropological, scientific or philosophical inventions, instruments, models or designs;
- (f) "retail commercial area" means property used to sell food, beverages, merchandise or services;
- (g) "sheltered workshop" means a facility designed to provide an occupation for and to promote the adjustment and rehabilitation of persons who would otherwise have difficulty obtaining employment because of physical, mental or developmental disabilities;

- (h) "thrift shop" means a retail outlet operated for a charitable or benevolent purpose that sells donated clothing, appliances, furniture, household items and other items of value at a nominal cost to people in need.

Exemption for
other property

13 This Part describes property that is exempt from taxation under section 362(n) of the Act that is not exempt under section 362(n)(i) to (iv) of the Act.

Day cares,
museums and
other facilities

14 A non-profit organization that holds property on which any of the following facilities are operated may apply to the municipality within whose area the property is located for an exemption for taxation:

- (a) a facility used for sports or recreation to the extent that the facility is not used in the operation of a professional sports franchise;
- (b) a facility located outside of Calgary or Edmonton that is operated and used by a community association;
- (c) a facility located in Calgary or Edmonton that is operated and used by a community association that is a member of the Federation of Calgary Communities or the Edmonton Federation of Community Leagues;
- (d) a facility used for fairs or exhibitions, including agricultural exhibitions;
- (e) a facility used for the arts or a museum;
- (f) a facility used for the care and supervision of children and that is
 - (i) a day care facility as defined in the *Day Care Regulation* (AR 333/90), and
 - (ii) licensed under that Regulation;
- (g) a facility used by an ethno-cultural association for sports, recreation or education or for charitable or other benevolent purposes if
 - (i) the use of the property by the general public is actively encouraged, and
 - (ii) a sign is prominently posted in the facility indicating the hours that the whole or part of the facility is accessible to the public;
- (h) a facility in a municipality operated and used by an organization formed for a charitable or benevolent purpose where the majority of the organization's beneficiaries do not reside in the municipality;

- (i) a facility used as thrift shop;
- (j) a facility used as a sheltered workshop;
- (k) a facility operated and used by a chamber of commerce.

Conditions for
exemption

15(1) A municipality must grant a non-profit organization an exemption from taxation in respect of property referred to in section 14 that is held by the organization if

- (a) the non-profit organization makes an application for an exemption to the municipality by April 30, 1998 and supplies the municipality with the following by May 31, 1998:
 - (i) any information the municipality requires to determine if the organization meets the conditions for the exemption, and
 - (ii) a description of any retail commercial areas in the facility,
- (b) the facility on the property is one of the facilities described in section 14 and the non-profit organization operates the facility on a non-profit basis,
- (c) the facility on the property or any retail commercial area in the facility does not provide significant competition with one or more taxable businesses in the municipality or surrounding area,
- (d) the funds of the non-profit organization are chiefly used for the purposes of the organization and not for the benefit of the organization's directors and employees,
- (e) the municipality is satisfied that the operations of the non-profit organization on the property provide significant benefits,
- (f) the property is not disqualified by virtue of subsection (2) or (3), and
- (g) the requirements of subsections (4) and (5), if applicable, are met.

(2) Property referred to in section 14(a) to (e), (g) or (k) is not exempt from taxation if, for more than 30% of the time that the property is in use, the use of the property is restricted within the meaning of section 7.

(3) Property referred to in section 14(f) or (h) to (j) is not exempt from taxation if an individual is not permitted to use the property because of the individual's race, culture, ethnic origin or religious belief.

(4) Before granting an exemption under this section in respect of a property that is held by a non-profit organization, the municipality may require that an agreement between the organization and the municipality be in force that sets out that

(a) the organization will provide the municipality with a report by a time and in a manner specified in the agreement that sets out the information the municipality requires to determine if the organization met the conditions for the exemption during 1998, and

(b) if the organization does not comply with the provisions referred to in clause (a), the organization will pay the municipality an amount equivalent to the property taxes that would be payable in respect of the property for 1998 if the property was not exempt.

(5) Before granting an exemption under this section in respect of a property that is owned by a non-profit organization, the municipality may require that an agreement between the organization and the municipality be in force that sets out that

(a) no disposition of the property may be made without the approval of the municipality, and

(b) if the organization is being wound-up and dissolved, the organization must, if required by the municipality, transfer the property to the municipality.

(6) Despite subsection (1), a municipality may, in respect of a non-profit organization, waive the requirement to apply by April 30, 1998 or any of the requirements in subsection (1)(c), (d) and (e).

(7) If a municipality grants an exemption to a non-profit organization and later determines that the organization did not meet the conditions that applied to the organization for the exemption for all or a part of 1998, the municipality may in 1998 cancel the exemption for all or part of 1998, as the case may be, and require the organization to pay property tax in respect of the property for the period that the exemption is cancelled.

Retail
commercial
areas

16(1) In this section, "exempt facility" means a facility or part of a facility held by a non-profit organization that is exempt from taxation under section 362(n)(i) to (iv) of the Act or section 15 of this Regulation.

(2) A retail commercial area that is located within an exempt facility is exempt from taxation if

(a) the non-profit organization that holds the exempt facility also holds and operates the retail commercial area, and

(b) the net income from the retail commercial area is used

- (i) to pay all or part of the operational or capital costs of the exempt facility, or
- (ii) to pay all or part of the operational or capital costs of any other facility that is held by the non-profit organization and that is exempt from taxation under section 362 of the Act or section 15 of this Regulation.

PART 4

REPEAL

Repeal

17(1) The *Non-profit Organization Tax Exemption Regulation* (AR125/95) is repealed.

(2) Despite the repeal of the *Non-profit Organization Tax Exemption Regulation* (AR 125/95), that Regulation continues to apply to taxation in 1995, 1996 and 1997.

Appendix B:

Interpretive Notes on the Community Organization 1998 Property Tax Exemption Regulation

Section 1 Definitions

Interpretation	a) Act b) charitable or benevolent purpose c) general public d) professional sports franchise e) taxation
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Comments	There are more definitions than in the Non-Profit Organization Tax Exemption Regulation (the previous regulation) in order to improve clarity. Also refer to section 12 for definitions pertaining to Part 3 and to the definitions in sections 1 and 284 of the Municipal Government Act.
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PART 1: GENERAL RULES

Section 2 Application

Interpretation	The Regulation is only effective for 1998.
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Comments	This regulation is a transitional regulation. It does not permanently implement the Non-Profit Organization Tax Exemption Review Committee's recommendations.
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Section 3 Part of a Property

Interpretation	The Regulation only applies to the part of the property that qualifies for the exemption.
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Comments	As in the previous regulation, all section 362(n) exemptions are subject to this section.
-----------------	---

Section 4 Primary Use of Property

Interpretation	A property must be primarily used for a qualifying purpose to qualify for an exemption.
-----------------------	---

Comments The provision is similar to that of the previous regulation except for replacing “chiefly used” by “primarily used.” “Chiefly used” means used 51 percent of the time, while “primarily used” is defined as meaning at least 60 percent of the time. On occasion a combination of related exempt uses may be required to reach the 60 percent use level.

Section 5 Holding Property

Interpretation This section defines holding property as controlling its use through a lease, licence, or permit, or through ownership in the absence of these.

Comments Holding was not defined in the Non-Profit Organization Tax Exemption Regulation (the previous regulation), and a number of stakeholders requested clarification of the concept.

Section 6 Non-Profit Organization

Interpretation This section provides a fairly narrow definition of a non-profit organization that excludes credit unions and co-ops. However, it does not limit the distribution of assets on dissolution.

Comments A more restricted definition than was used in the previous regulation is more appropriate for property tax exemptions. Section 15(5) of the new Regulation can be used to address the distribution of assets if the non-profit group owns the property.

Section 7 Meaning of Restricted

Interpretation This section defines restricted use in terms of access restrictions based on race, religious belief, etc., or by significant fees, but not if based on safety, liability, etc.

Comments This wording is more specific than the wording in the previous regulation.

Section 8 Liquor Licences

- | | |
|-----------------------|--|
| Interpretation | This section allows eligible non-profit facilities with Class C or special event liquor licences to maintain their tax exemption. |
| Comments | This change is required by the wording of the new Gaming and Liquor Regulation, which renamed private non-sale and private resale permits as special event licences. |

PART 2: QUALIFICATIONS FOR EXEMPTION UNDER SECTION 362(n)(ii) - (iv)

Section 9 Exemption under Section 362(n)(ii) of the Act

- | | |
|-----------------------|---|
| Interpretation | This section lists qualifications for exemptions under section 362(n)(ii) which largely limit this exemption to non-profit children's sports facilities where access to the property is not restricted. |
| Comments | The Non-Profit Organization Tax Exemption Regulation (the previous regulation) did not give specific direction on exemptions for sports and recreation facilities mainly serving adults. Non-profit sports and recreation facilities serving adults can, at the municipality's discretion, be exempted under sections 14(a) and 15 of the Regulation. |

Section 10 Exemption under Section 362(n)(iii) of the Act

- | | |
|-----------------------|--|
| Interpretation | This section lists qualifications for exemptions under section 362(n)(iii) that limits this exemption to charitable and benevolent uses that provide benefits to the general public in the local community and that provide unrestricted public access. |
| Comments | The provisions on organizational or individual benefit are less restrictive than were required in the previous regulation. The requirement for providing benefits to the local community was not in the previous regulation. Charities with few or no local beneficiaries are addressed in sections 14(h) and 15. |

Section 11 Exemption under Section 362(n)(iv) of the Act

Interpretation	The qualifications for property to be exempt under section 362(n)(iv) limit this exemption to non-profit lodge facilities receiving provincial operating subsidies.
Comments	This is no change from the previous regulation. It has already been decided to pay grants in place of taxes for all the other unsubsidized non-profit senior citizens housing facilities for 1998.

PART 3: EXEMPTION FOR OTHER PROPERTY²³

Section 12 Definitions

Interpretation	<ul style="list-style-type: none">a) artsb) chamber of commercec) community associationd) ethno-cultural associatione) museumf) retail commercial areag) sheltered workshoph) thrift shop
Comments	Stakeholders were calling for more terms to be defined to help clarify the exemption criteria.

Section 13 Exemption for Other Property

Interpretation	The property described in this Part (section 14) is not eligible for exemption under section 362(n)(i) to (iv) of the MGA but can be exempt as "other property" under section 362(n).
Comments	This is to make it clear that the properties cited in section 14 are subject only to the exemption conditions in Part 1 and section 15. They are not subject to the exemption conditions in Part 2 (section 9 - 11) of the Regulation or the conditions of section 362(n)(i) to (iv) of the Act.

²³ There is no equivalent to Part 3 in the Non-Profit Organization Tax Exemption Regulation. There are further comments on the Part 3 provisions on pages 8 - 11 of this guide.

Section 14 Day Cares, Museums and Other Facilities

- Interpretation** This section allows a non-profit group holding a facility used for adult sports or recreation, a community association, fairs or exhibitions, the arts or a museum, child care, ethno-cultural sports, recreation, education or charities, a charity with few or no local beneficiaries, a thrift shop, a sheltered workshop, or chamber of commerce community services to apply to the municipality for a tax exemption. Some qualifying conditions are included in this listing.
- Comments** The application requirement means that non-profit groups seeking tax exemptions must identify their potentially eligible facilities to the municipality if they want exemptions for them. The municipal assessors can then review the applications and decide on the potentially exempt properties.

Section 15 Conditions for Exemption

- Interpretation** This section specifies the conditions that must be met for exemption of section 14 facilities. The key requirements are that the application must be made by April 30, that the municipality must be satisfied that the operation provides significant benefits, that there is non-discriminatory access, and that the municipality can require an agreement on the disposition of the property if the non-profit organization owns it. However, the municipality can waive several of the requirements, including the April 30 application deadline.
- Comments** The broad qualification criteria will basically allow the municipality to approve new exemption applications in the categories recommended by the Review Committee **only to the extent it considers appropriate** in 1998. The long term recommendation will have a different provision (qualifying exemptions will be in effect unless they are cancelled by the municipality).

Section 16 Retail Commercial Areas

Interpretation This provision allows exempting a retail commercial area in an exempt facility if the non-profit organization that holds the facility (or part of the facility) also holds and operates the retail commercial area, and the net income is used to pay all or part of the operational or capital costs of the facility, or to support other exempt facilities held by the organization.

Comments This allows gift shops, snack bars, day cares and other facilities run on a fee or fund raising basis by a non-profit group to be exempted from property taxes if the proceeds are used appropriately. This is very different from the Non-Profit Organization Tax Exemption Regulation's ban on exempting properties that competed with taxable businesses.

Section 17 Repeal

Interpretation This repeals the Non-Profit Organization Tax Exemption Regulation.

Comments The proposed regulation is the one that will govern section 362(n) exemptions in 1998. However, the Non-Profit Organization Tax Exemption Regulation still applies to appeals and other outstanding issues regarding 1997 tax exemptions.

Appendix C:

Sample Application Forms for a Property Tax Exemption

Introduction

The Community Organization 1998 Property Tax Exemption Regulation allows a non-profit organization which operates one or more facilities listed in section 14²⁴ on property it holds to apply to the municipality for a tax exemption. **This application requirement was included in the new Regulation to accomplish the following:**

- (a) to put the responsibility on the non-profit organization to notify the municipality about which properties it wanted exempted and why;
- (b) to allow the municipality to formally set out the information it wants from the non-profit organization to make a determination on the tax status of the properties being considered for exemption; and
- (c) to establish cut-off dates for the non-profit organization to submit the application and the supporting information to give the municipality sufficient time to establish its tax rate based on reliable information on expected exemptions.

The municipality can set its own application requirements. However, the municipality should be asking the right questions to ensure that it receives the required information to accurately determine the tax status of the property under review.

The following eight sample application forms have been prepared for your use. These forms can be used as prepared, customized to best suit your municipality's requirements, or replaced by your own application form(s).

Of the eight sample forms that were prepared for your consideration, the first six are detailed forms for sports and recreation facilities, community association facilities, fair or exhibition facilities, arts or museum facilities, child care facilities, or ethno-cultural facilities. The seventh is a detailed but generic form, and the eighth is a simpler, shorter form. The form(s) chosen by each municipality will depend on the amount of information it requires about a non-profit facility in order to make an informed decision on granting or refusing the facility tax exempt status.

Similar forms can be used to apply for a section 364 exemption if the municipality has occasion to consider an exemption application under section 364 of the Municipal Government Act.

²⁴ The facility (or facilities) in question must be located on properties held by the same non-profit organization that operates the facility (or facilities).



APPLICATION FOR A PROPERTY TAX EXEMPTION

For Property Used for Sports or Recreation under Alberta Regulation 289/97 (Section 14(a))

Office use only (Application deadline April 30, 1998)		Date:
Property Roll Identifier:		Taxation Year:
Legal Description:		
Municipal Property Address:		
Total Assessment:	Land Assessment:	Building Assessment:
Statutory Exemption under the Municipal Government Act:		YES or NO
Discretionary Exemption under the Municipal Government Act (s. 364):		YES or NO
Discretionary Exemption under s. 15 of the new Regulation:		YES or NO

I. PROPERTY INFORMATION

Name of Property Owner		
Address of Property Owner	Tel	Fax
Address of property for which exemption is requested		
What portion/area of the above property does the organization hold? All Part Area Occupied		
Is there an agreement in place that confirms the portion of the property held by the organization? YES NO	If yes, provide expiry date	Date on which organization took up occupancy?

II. ORGANIZATION INFORMATION

Name of organization operating the facility used for sports or recreation		Tel	Fax
Organization's objectives/purposes 1. _____ 2. _____ 3. _____ 4. _____			
Act under which organization is registered as a non-profit organization		Registration number	
Are the resources of this organization devoted to the above objectives/purposes? YES NO If no, please explain in an attachment		Is there any monetary gain or benefit received by the organization as a result of its provision of services? YES NO If yes, please explain in an attachment	
Does your organization expect to move from this property during 1998? If yes, please explain. YES NO			
Are the organization's services similar to any other organization's or business' services? YES NO		If Yes, provide names: _____ _____	
Is any income or profits from the organization paid to a member or shareholder of the organization other than as wages? YES NO If yes, please explain in an attachment.			

III. RETAIL COMMERCIAL OR LICENSED AREA

Does the organization have a retail commercial area at this location? If yes do you operate this area?	YES	NO
What goods or services are sold at the retail commercial area?		
For what purpose is the net income from the retail commercial area used?		
Has an area within the facility been issued a gaming/liquor license?	YES	NO
Class	Area	Sq.Ft.
If yes, enclose a copy.		

IV. PROPERTY USE INFORMATION SPECIFIC TO SPORTS AND RECREATION FACILITIES

List the sports and recreation activities occurring at the facility.		
1. _____		
2. _____		
3. _____		
4. _____		
How many hours per week is your portion of the facility operated for sports and recreation?		

Are the majority of those participating in sports or recreation under the age of 18?		
What percentage of time do those participating, under the age of 18, have use of the facility?		
Is there a membership requirement?	YES	NO
If yes, please provide the age and fee structure in an attachment.		
Are the services provided by the organization advertised and promoted to the general public, or primarily to members?		
General Public	Members	

V. CONTACT INFORMATION

Contact Name	Position with Organization	Tel	Fax
Preferred mailing address for Non-Profit Organization			Postal Code
Organization's President		Tel	Fax
Organization's Treasurer		Tel	Fax

I certify that I am authorized to submit this application on behalf of the organization, and that the information provided on this application form, and as attachments to this form, is true and accurate in every respect, and that all information required under Section VI of this application is included.	
Name (please print)	Date (Mandatory)
Position	Signature

Please provide all information required in order for the Assessment Department to determine the exempt status of the property occupied by your organization.

VI. OTHER REQUIRED INFORMATION

Please ensure the following are submitted as attachments to the application:

1. Certificate of Incorporation, current confirmation that the organization is registered in good standing and the Memorandum of Association and the Articles of Association, if any.
2. Copy of the organization's most current financial statements.
3. Copy of title (if applicable).
4. Copies of:
 - the current lease agreement with the property owner (if applicable); and
 - a plan showing the area leased.
5. A letter from the property owner confirming (if applicable):
The property owner
 - is aware of this exemption application; and,
 - understands the municipality will estimate taxes on the area occupied by the organization based on methodology that may be different from that used by the landlord.
6. Any available brochures, newsletters or other pertinent information relative to your organization.
7. Any other information the Assessment Department may, from time to time, deem necessary.



APPLICATION FOR A PROPERTY TAX EXEMPTION

For Property Used by a Community Association
under Alberta Regulation 289/97 (Section 14(b&c))

Office use only (Application deadline April 30, 1998)		Date:
Property Roll Identifier:	Taxation Year:	
Legal Description:		
Municipal Property Address:		
Total Assessment:	Land Assessment:	Building Assessment:
Statutory Exemption under the Municipal Government Act:		YES or NO
Discretionary Exemption under the Municipal Government Act (s. 364):		YES or NO
Discretionary Exemption under s. 15 of the new Regulation:		YES or NO

I. PROPERTY INFORMATION

Name of Property Owner		
Address of Property Owner	Tel	Fax
Address of property for which exemption is requested		
What portion/area of the above property does the organization hold?	All	Part Area Occupied
Is there an agreement in place that confirms the portion of the property held by the organization? YES NO	If yes, provide expiry date	Date on which organization took up occupancy?

II. ORGANIZATION INFORMATION

Name of organization operating the community association facility	Tel	Fax
Organization's objectives/purposes 1. _____ 2. _____ 3. _____ 4. _____		
Act under which organization is registered as a non-profit organization	Registration number	
Are the resources of this organization devoted to the above objectives/purposes? YES NO If no, please explain in an attachment	Is there any monetary gain or benefit received by the organization as a result of its provision of services? YES NO If yes, please explain in an attachment	
Are the organization's services similar to any other organization's or business's services? YES NO	If Yes, provide name(s) _____ _____	
Does your organization expect to move from this property during 1998? If yes, please explain. YES NO		
Is any income or profits from the organization paid to a member or shareholder of the organization other than as wages? YES NO If yes, please explain in an attachment.		

III. RETAIL COMMERCIAL OR LICENSED AREA

Does the organization have a retail commercial area at this location? If yes do you operate this area?	YES	NO
What goods or services are sold at the retail commercial area?		
For what purpose is the net income from the retail commercial area used?		
Has an area within the facility been issued a gaming/liquor license?	YES	NO
Class	Area	Sq.Ft.
If yes, enclose a copy		

IV. PROPERTY USE INFORMATION SPECIFIC TO COMMUNITY ASSOCIATION FACILITIES

What are the facilities you operate on the property?		
1.		
2.		
3.		
4.		
Is there a membership requirement? If yes, please specify the membership conditions and fee structure.	YES	NO
Are there any other restrictions in place preventing anyone from using the facility? If yes, what are they?	YES	NO

V. CONTACT INFORMATION

Contact Name	Position with Organization	Tel	Fax
Preferred mailing address for Non-Profit Organization			Postal Code
Organization's President		Tel	Fax
Organization's Treasurer		Tel	Fax

I certify that I am authorized to submit this application on behalf of the organization, and that the information provided on this application form, and as attachments to this form, is true and accurate in every respect, and that all information required under Section VI of this application is included.

Name (please print)	Date (Mandatory)
Position	Signature

Please provide all information required in order for the Assessment Department to determine the exempt status of the property occupied by your organization.

VI. OTHER REQUIRED INFORMATION

Please ensure the following are submitted as attachments to the application:

1. Certificate of incorporation, current confirmation that the organization is registered in good standing and the Memorandum of Association and the Articles of Association, if any.
2. Copy of the organization's most current financial statements.
3. Copy of title (if applicable).
4. Copies of:
 - the current lease agreement with the property owner (if applicable); and
 - a plan showing the area leased.
5. A letter from the property owner confirming (if applicable):
The property owner
 - is aware of this exemption application; and
 - understands the municipality will estimate taxes on the area occupied by the organization based on methodology that may be different from that used by the landlord.
6. Any available brochures, newsletters or other pertinent information relative to your organization.
7. Any other information the Assessment Department may, from time to time, deem necessary.



APPLICATION FOR A PROPERTY TAX EXEMPTION

**For Property Used for Fairs or Exhibitions
under Alberta Regulation 289/97 (Section 14(d))**

Office use only (Application deadline April 30, 1998)		Date:
Property Roll Identifier:		Taxation Year:
Legal Description:		
Municipal Property Address:		
Total Assessment:	Land Assessment:	Building Assessment:
Statutory Exemption under the Municipal Government Act:		YES or NO
Discretionary Exemption under the Municipal Government Act (s. 364):		YES or NO
Discretionary Exemption under s. 15 of the new Regulation:		YES or NO

I. PROPERTY INFORMATION

Name of Property Owner		
Address of Property Owner	Tel	Fax
Address of property for which exemption is requested		
What portion/area of the above property does the organization hold?	All	Part
Area Occupied		
Is there an agreement in place that confirms the portion of the property held by the organization?	If yes, provide expiry date	Date on which organization took up occupancy?
YES NO		

II. ORGANIZATION INFORMATION

Name of organization operating the facility used for fairs or exhibitions		Tel	Fax
Organization's objectives/purposes			
1. _____			
2. _____			
3. _____			
4. _____			
Act under which organization is registered as a non-profit organization		Registration number	
Are the resources of this organization devoted to the above objectives/purposes?		Is there any monetary gain or benefit received by the organization as a result of its provision of services?	
YES NO		YES NO	
If no, please explain in an attachment		If yes, please explain in an attachment	
Does your organization expect to move from this property during 1998? If yes, please explain.			
YES NO			
Is any income or profits from the organization paid to a member or shareholder of the organization other than as wages?			
YES NO			
If yes, please explain in an attachment.			

III. RETAIL COMMERCIAL OR LICENSED AREA

Does the organization have a retail commercial area at this location? If yes do you operate this area?	YES	NO
What goods or services are sold at the retail commercial area?		
For what purpose is the net income from the retail commercial area used?		
Has an area within the facility been issued a gaming/liquor license?	YES	NO
Class	Area	Sq.Ft.
		If Yes, enclose a copy

IV. PROPERTY USE INFORMATION SPECIFIC TO FAIRS OR EXHIBITION FACILITIES

What are the facilities you operate on the property?		
1. _____		
2. _____		
3. _____		
4. _____		
Are there fees required for access to the facility? If so, specify the fee structure.	YES	NO

Are there any other restrictions in place preventing anyone from using the facility? If yes, what are they?	YES	NO

V. CONTACT INFORMATION

Contact Name	Position with Organization	Tel	Fax
Preferred mailing address for Non-Profit Organization			Postal Code
Organization's President		Tel	Fax
Organization's Treasurer		Tel	Fax

I certify that I am authorized to submit this application on behalf of the organization, and that the information provided on this application form, and as attachments to this form, is true and accurate in every respect, and that all information required under Section VI of this application is included.	
Name (please print)	Date (Mandatory)
Position	Signature

Please provide all information required in order for the Assessment Department to determine the exempt status of the property occupied by your organization.

VI. OTHER REQUIRED INFORMATION

Please ensure the following are submitted as attachments to the application:

1. Certificate of Incorporation, current confirmation that the organization is registered in good standing and the Memorandum of Association and the Articles of Association, if any.
2. Copy of the organization's most current financial statements.
3. Copy of title (if applicable).
4. Copies of:
 - the current lease agreement with the property owner (if applicable); and,
 - a plan showing the area leased.
5. A letter from the property owner confirming (if applicable):
The property owner
 - is aware of this exemption application; and,
 - understands the municipality will estimate taxes on the area occupied by the organization based on methodology that may be different from that used by the landlord.
6. Any available brochures, newsletters or other pertinent information relative to your organization.
7. Any other information the Assessment Department may, from time to time, deem necessary.



APPLICATION FOR A PROPERTY TAX EXEMPTION

For Property Used for an Arts Facility or a Museum
under Alberta Regulation 289/97 (Section 14(e))

Office use only (Application deadline April 30, 1998)		Date:
Property Roll Identifier:	Taxation Year:	
Legal Description:		
Municipal Property Address:		
Total Assessment:	Land Assessment:	Building Assessment:
Statutory Exemption under the Municipal Government Act:	YES	or NO
Discretionary Exemption under the Municipal Government Act (s. 364):	YES	or NO
Discretionary Exemption under s. 15 of the new Regulation:	YES	or NO

I. PROPERTY INFORMATION

Name of Property Owner		
Address of Property Owner	Tel	Fax
Address of property for which exemption is requested		
What portion/area of the above property does the organization hold?	All	Part
Area Occupied		
Is there an agreement in place that confirms the portion of the property held by the organization?	If yes, provide expiry date	Date on which organization took up occupancy?
YES	NO	

II. ORGANIZATION INFORMATION

Name of organization operating the facility used for arts or a museum	Tel	Fax
Organization's objectives/purposes		
1. _____		
2. _____		
3. _____		
4. _____		
Act under which organization is registered as a non-profit organization	Registration number	
Are the resources of this organization devoted to the above objectives/purposes?	Is there any monetary gain or benefit received by the organization as a result of its provision of services?	
YES	NO	YES
If no, please explain in an attachment	NO	
Does your organization expect to move from this property during 1998? If yes, please explain.	If yes, please explain in an attachment	
YES	NO	
Are the organization's services similar to any other organization's or business's services?	If yes, provide name(s)	
YES	NO	_____
Is any income or profits from the organization paid to a member or shareholder of the organization other than as wages?		
YES		
NO		
If yes, please explain in an attachment.		

III. RETAIL COMMERCIAL OR LICENSED AREA

Does the organization have a retail commercial area at this location?	YES	NO
If yes do you operate this area?		
What goods or services are sold at the retail commercial area?		
For what purpose is the net income from the retail commercial area used?		
Has an area within the facility been issued a gaming/liquor license?	YES	NO
	Class	Area
		Sq.Ft.
If Yes, enclose a copy		

IV. PROPERTY USE INFORMATION SPECIFIC TO AN ARTS/MUSEUM FACILITY

What are the facilities you operate on the property?		
1. _____		
2. _____		
3. _____		
4. _____		
Is there a membership requirement?	YES	NO
If yes, please specify the membership conditions and fee structure.		

Are there any other restrictions in place preventing anyone from using the facility?	YES	NO
If yes, what are they?		

Are the services provided by the organization advertised and promoted to the general public, or primarily to members?		
General Public		Members

V. CONTACT INFORMATION

Contact Name	Position with Organization	Tel	Fax
Preferred mailing address for Non-Profit Organization			Postal Code
Organization's President		Tel	Fax
Organization's Treasurer		Tel	Fax

I certify that I am authorized to submit this application on behalf of the organization, and that the information provided on this application form, and as attachments to this form, is true and accurate in every respect, and that all information required under Section VI of this application is included.	
Name (please print)	Date (Mandatory)
Position	Signature

Please provide all information required in order for the Assessment Department to determine the exempt status of the property occupied by your organization.

VI. OTHER REQUIRED INFORMATION

Please ensure the following are submitted as attachments to the application:

1. Certificate of Incorporation, current confirmation that the organization is registered in good standing and the Memorandum of Association and the Articles of Association, if any.
2. Copy of the organization's most current financial statements.
3. Copy of title (if applicable).
4. Copies of:
 - the current lease agreement with the property owner (if applicable); and,
 - a plan showing the area leased.
5. A letter from the property owner confirming (if applicable):
The property owner
 - is aware of this exemption application; and,
 - understands the municipality will estimate taxes on the area occupied by the organization based on methodology that may be different from that used by the landlord.
6. Any available brochures, newsletters or other pertinent information relative to your organization.
7. Any other information the Assessment Department may, from time to time, deem necessary.



APPLICATION FOR A PROPERTY TAX EXEMPTION

**For Property Used for the Care and Supervision of Children
under Alberta Regulation 289/97 (Section 14(f))**

Office use only (Application deadline April 30, 1998)		Date:
Property Roll Identifier:		Taxation Year:
Legal Description:		
Municipal Property Address:		
Total Assessment:	Land Assessment:	Building Assessment:
Statutory Exemption under the Municipal Government Act:	YES	or NO
Discretionary Exemption under the Municipal Government Act (s. 364):	YES	or NO
Discretionary Exemption under s. 15 of the new Regulation:	YES	or NO

I. PROPERTY INFORMATION

Name of Property Owner		
Address of Property Owner	Tel	Fax
Address of property for which exemption is requested		
What portion/area of the above property does the organization hold?	All	Part Area Occupied
Is there an agreement in place that confirms the portion of the property held by the organization?	If yes, provide expiry date	Date on which organization took up occupancy?
YES NO		

II. ORGANIZATION INFORMATION

Name of organization operating the facility used for care and supervision of children	Tel	Fax
Organization's objectives/purposes		
1. _____		
2. _____		
3. _____		
4. _____		
Act under which organization is registered as a non-profit organization	Registration number	
Are the resources of this organization devoted to the above objectives/purposes?	Is there any monetary gain or benefit received by the organization as a result of its provision of services?	
YES NO	YES NO	
If no, please explain in an attachment	If yes, please explain in an attachment	
Does your organization expect to move from this property during 1998? If yes, please explain.		
YES NO		
Are the organization's services similar to any other organization's or business's services?	If Yes, provide name(s)	
YES NO	_____	
Is any income or profits from the organization paid to a member or shareholder of the organization other than as wages?		
YES NO		
If yes, please explain in an attachment.		

III. RETAIL COMMERCIAL OR LICENSED AREA

Does the organization have a retail commercial area at this location? If yes do you operate this area?	YES	NO
What goods or services are sold at the retail commercial area?		
For what purpose is the net income from the retail commercial area used?		
Has an area within the facility been issued a gaming/liquor license? Class	YES Area	NO Sq.Ft If Yes, enclose a copy

IV. PROPERTY USE INFORMATION SPECIFIC TO A FACILITY FOR THE CARE AND SUPERVISION OF CHILDREN

Is the organization licensed under the Daycare Regulation by the Province? If yes, please provide a copy.	
How many children are you licensed for?	
How many full time children are supervised?	
What type of facility do you operate?	
Daycare Nursery School Drop-In Centre	
Are there restrictions in place preventing anyone from using the facility? If Yes, what are they?	YES NO

V. CONTACT INFORMATION

Contact Name	Position with Organization	Tel	Fax
Preferred mailing address for Non-Profit Organization			Postal Code
Organization's President		Tel	Fax
Organization's Treasurer		Tel	Fax

I certify that I am authorized to submit this application on behalf of the organization, and that the information provided on this application form, and as attachments to this form, is true and accurate in every respect, and that all information required under Section VI of this application is included.	
Name (please print)	Date (Mandatory)
Position	Signature

Please provide all information required in order for the Assessment Department to determine the exempt status of the property occupied by your organization.

VI. OTHER REQUIRED INFORMATION

Please ensure the following are submitted as attachments to the application:

1. Certificate of Incorporation, current confirmation that the organization is registered in good standing and the Memorandum of Association and the Articles of Association, if any.
2. Copy of the organization's most current financial statements.
3. Copy of title (if applicable).
4. Copies of:
 - the current lease agreement with the property owner (if applicable); and,
 - a plan showing the area leased.
5. A letter from the property owner confirming (if applicable):
The property owner
 - is aware of this exemption application; and,
 - understands the municipality will estimate taxes on the area occupied by the organization based on methodology that may be different from that used by the landlord.
6. Any available brochures, newsletters or other pertinent information relative to your organization.
7. Any other information the Assessment Department may, from time to time, deem necessary.



APPLICATION FOR A PROPERTY TAX EXEMPTION

For Property Used by an Ethno-Cultural Association
under Alberta Regulation 289/97 (Section 14(g))

Office use only (Application deadline April 30, 1998)		Date:
Property Roll Identifier:		Taxation Year:
Legal Description:		
Municipal Property Address:		
Total Assessment:	Land Assessment:	Building Assessment:
Statutory Exemption under the Municipal Government Act:	YES	or NO
Discretionary Exemption under the Municipal Government Act (s. 364):	YES	or NO
Discretionary Exemption under s. 15 of the new Regulation:	YES	or NO

I. PROPERTY INFORMATION

Name of Property Owner		
Address of Property Owner	Tel	Fax
Address of property for which exemption is requested		
What portion/area of the above property does the organization hold?	All	Part Area Occupied
Is there an agreement in place that confirms the portion of the property held by the organization?	If yes, provide expiry date	Date on which organization took up occupancy?
YES NO		

II. ORGANIZATION INFORMATION

Name of organization operating the facility used for ethno-cultural association activities	Tel	Fax
Organization's objectives/purposes		
1. _____		
2. _____		
3. _____		
4. _____		
Act under which organization is registered as a non-profit organization	Registration number	
Are the resources of this organization devoted to the above objectives/purposes?	Is there any monetary gain or benefit received by the organization as a result of its provision of services?	
YES NO	YES NO	
If no, please explain in an attachment	If yes, please explain in an attachment	
Does your organization expect to move from this property during 1998? If yes, please explain.		
YES NO		
Are the organization's services similar to any other organization's or business's services?	If Yes, provide name(s)	
YES NO	_____	
Is any income or profits from the organization paid to a member or shareholder of the organization other than as wages?		
YES NO		
If yes, please explain in an attachment.		

III. RETAIL COMMERCIAL OR LICENSED AREA

Does the organization have a retail commercial area at this location? If yes do you operate this area?	YES	NO
What goods or services are sold at the retail commercial area?		
For what purpose is the net income from the retail commercial area used?		
Has an area within the facility been issued a gaming/liquor license?	YES	NO
Class	Area	Sq.Ft.
If Yes, enclose a copy		

IV. PROPERTY USE INFORMATION SPECIFIC TO ETHNO-CULTURAL ASSOCIATION FACILITIES

What facilities are on the property?	
1.	
2.	
3.	
4.	
What times are they accessible to the general public?	
What are the membership requirements including fees?	
Are there any other restrictions in place preventing anyone from using the facility? If yes, what are they?	YES
	NO
Are the services provided by the organization advertised and promoted to the general public, or primarily to members?	
General Public	Members

V. CONTACT INFORMATION

Contact Name	Position with Organization	Tel	Fax
Preferred mailing address for Non-Profit Organization			Postal Code
Organization's President		Tel	Fax
Organization's Treasurer		Tel	Fax

I certify that I am authorized to submit this application on behalf of the organization, and that the information provided on this application form, and as attachments to this form, is true and accurate in every respect, and that all information required under Section VI of this application is included.

Name (please print)	Date (Mandatory)
Position	Signature

Please provide all information required in order for the Assessment Department to determine the exempt status of the property occupied by your organization.

VI. OTHER REQUIRED INFORMATION

Please ensure the following are submitted as attachments to the application:

1. Certificate of Incorporation, current confirmation that the organization is registered in good standing and the Memorandum of Association and the Articles of Association, if any.
2. Copy of the organization's most current financial statements.
3. Copy of title (if applicable).
4. Copies of:
 - the current lease agreement with the property owner (if applicable); and,
 - a plan showing the area leased.
5. A letter from the property owner confirming (if applicable):
The property owner
 - is aware of this exemption application; and,
 - understands the municipality will estimate taxes on the area occupied by the organization based on methodology that may be different from that used by the landlord.
6. Any available brochures, newsletters or other pertinent information relative to your organization.
7. Any other information the Assessment Department may, from time to time, deem necessary.

GENERAL APPLICATION FOR A PROPERTY TAX EXEMPTION

Office use only (Application deadline April 30, 1998)		Date:
Property Roll Identifier:		Taxation Year:
Legal Description:		
Municipal Property Address:		
Total Assessment:	Land Assessment:	Building Assessment:
Statutory Exemption under the Municipal Government Act:		YES or NO
Discretionary Exemption under the Municipal Government Act (s. 364):		YES or NO
Discretionary Exemption under s. 15 of the new Regulation:		YES or NO

I. PROPERTY INFORMATION

Name of Property Owner		
Address of Property Owner	Tel	Fax
Address of property for which exemption is requested		
What portion/area of the above property does the organization hold?	All	Part
Area Occupied		
Is there an agreement in place that confirms the portion of the property held by the organization?	If yes, provide expiry date	Date on which organization took up occupancy?
YES NO		

II. ORGANIZATION INFORMATION

Name of organization operating the facility	Tel	Fax
Organization's objectives/purposes 1. _____ 2. _____ 3. _____ 4. _____		
Act under which organization is registered as a non-profit organization	Registration number	
Are the resources of this organization devoted to the above objectives/purposes?	Is there any monetary gain or benefit received by the organization as a result of its provision of services?	
YES NO	YES NO	
If no, please explain in an attachment	If yes, please explain in an attachment	
Does your organization expect to move from this property during 1998? If yes, please explain.		
YES NO		
Are the organization's services similar to any other organization's or business's services?	If Yes, provide name(s)	
YES NO	_____ _____	
Is any income or profits from the organization paid to a member or shareholder of the organization other than as wages?		
YES NO		
If yes, please explain in an attachment.		

III. RETAIL COMMERCIAL OR LICENSED AREA

Does the organization have a retail commercial area at this location? If yes do you operate this area?	YES	NO
What goods or services are sold at the retail commercial area?		
For what purpose is the net income from the retail commercial area used?		
Has an area within the facility been issued a gaming/liquor license?	YES	NO
Class	Area	Sq.Ft.
If Yes, enclose a copy		

IV. PROPERTY USE INFORMATION

What facilities are on the property?		
1.	_____	
2.	_____	
3.	_____	
4.	_____	
What times are they accessible to the general public?		
What are the membership requirements including fees?		
Are there any other restrictions in place preventing anyone from using the facility? If yes, what are they?	YES	NO
Are the services provided by the organization advertised and promoted to the general public, or primarily to members?		
General Public		Members

V. CONTACT INFORMATION

Contact Name	Position with Organization	Tel	Fax
Preferred mailing address for Non-Profit Organization			Postal Code
Organization's President		Tel	Fax
Organization's Treasurer		Tel	Fax

I certify that I am authorized to submit this application on behalf of the organization, and that the information provided on this application form, and as attachments to this form, is true and accurate in every respect, and that all information required under Section VI of this application is included.

Name (please print)	Date (Mandatory)
Position	Signature

Please provide all information required in order for the Assessment Department to determine the exempt status of the property occupied by your organization.

VI. OTHER REQUIRED INFORMATION

Please ensure the following are submitted as attachments to the application:

1. Certificate of Incorporation, current confirmation that the organization is registered in good standing and the Memorandum of Association and the Articles of Association, if any.
2. Copy of the organization's most current financial statements.
3. Copy of title (if applicable).
4. Copies of:
 - the current lease agreement with the property owner (if applicable); and,
 - a plan showing the area leased.
5. A letter from the property owner confirming (if applicable):
The property owner
 - is aware of this exemption application; and,
 - understands the municipality will estimate taxes on the area occupied by the organization based on methodology that may be different from that used by the landlord.
6. Any available brochures, newsletters or other pertinent information relative to your organization.
7. Any other information the Assessment Department may, from time to time, deem necessary.

SHORT FORM APPLICATION FOR A PROPERTY TAX EXEMPTION

Office use only (Application deadline April 30, 1998)		Date:
Property Roll Identifier:		Taxation Year:
Legal Description:		
Municipal Property Address:		
Total Assessment:	Land Assessment:	Building Assessment:
Statutory Exemption under the Municipal Government Act:		YES or NO
Discretionary Exemption under the Municipal Government Act (s. 364):		YES or NO
Discretionary Exemption under s. 15 of the new Regulation:		YES or NO

I. PROPERTY INFORMATION

Name of Property Owner		
Address of Property Owner	Tel	Fax
Address of property for which exemption is requested		
What portion/area of the above property does the organization hold? All Part Area Occupied		
Is there an agreement in place that confirms the portion of the property held by the organization? YES NO	If yes, provide expiry date	Date on which organization took up occupancy?

II. ORGANIZATION INFORMATION

Name of organization operating the facility		Tel	Fax
Contact Name	Position with Organization	Tel	Fax
Preferred mailing address for Non-Profit Organization			Postal Code
Organization's objectives/purposes			
1. _____			
2. _____			
3. _____			
4. _____			
List the facilities and services provided and how they benefit the general public			
1. _____			
2. _____			
3. _____			
4. _____			

III. OTHER REQUIRED INFORMATION

Please provide the following information by May 31, 1998 to have your application considered:

I certify that I am authorized to submit this application on behalf of the organization, and that the information provided on this application form, and as attachments to this form, is true and accurate in every respect, and that all information required under Section III of this application is included.	
Name (please print)	Date (Mandatory)
Position	Signature

Appendix D: Determining the Property Tax Status of a Property Held by a Non-Profit Organization

In order to work through the application of the new Regulation, page 4 of this guide suggests the following approach:

- Does the main use meet the general conditions for a section 362(n) exemption?
- Where does the main use fit into the current exemption categories? The current categories are listed in section 362(n)(i), 362(n)(ii), 362(n)(iii), and 362(n)(iv) of the Act and in sections 14 and 15 of the Regulation.
- Does the facility meet the specific conditions, including the access conditions, set out in section 362(n) and the new Regulation for the applicable exemption category?
- If the facility qualifies for an exemption, do the related retail commercial areas (if any) meet the requirements of section 16 or (if a licenced facility) section 8 of the Regulation?

This process is outlined graphically in the **Property Exemption Flow Chart** on the following pages (particularly the second and third page of the flow chart).

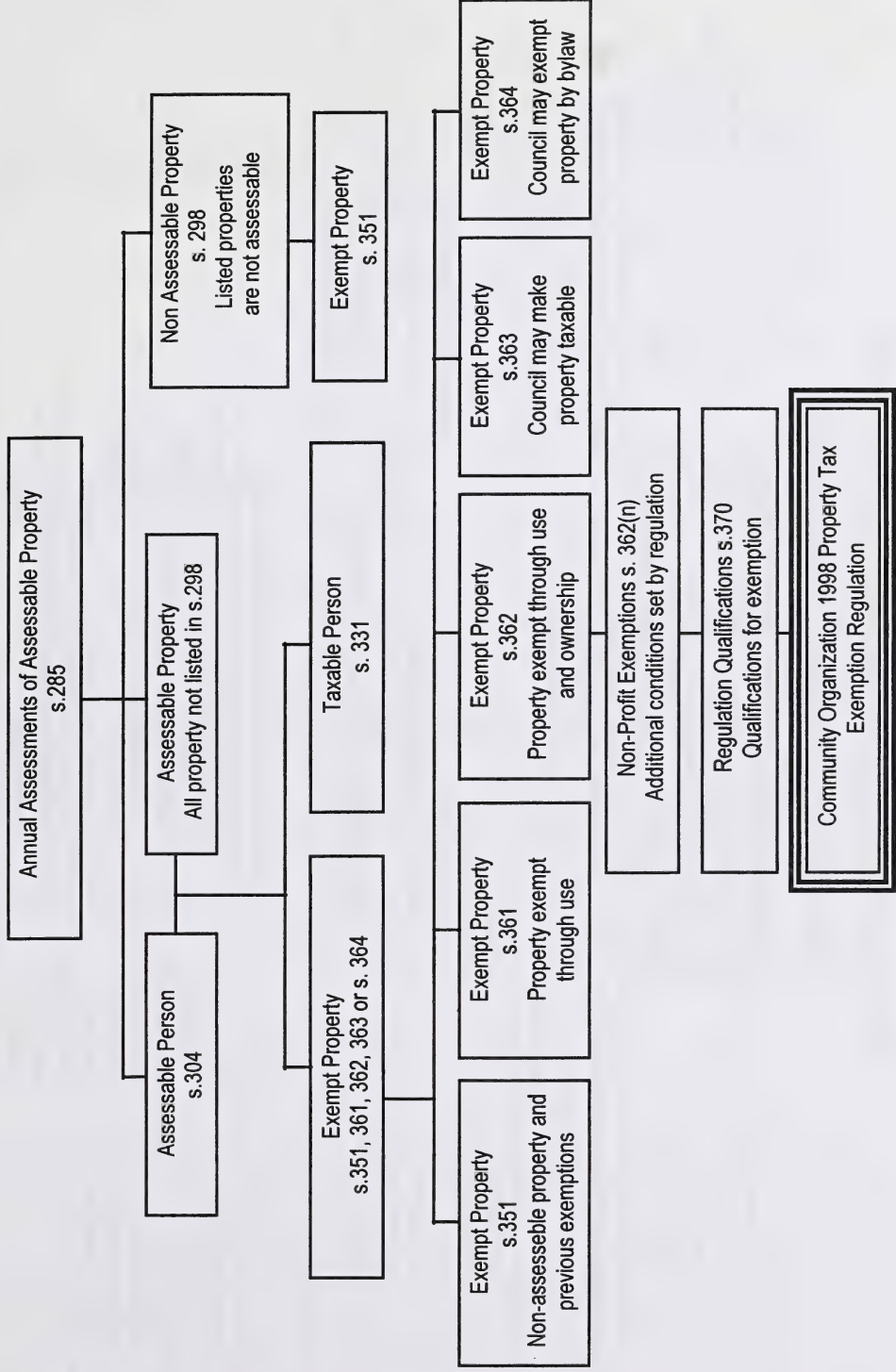
If more explanation and details are required, let us pick an imaginary example property, and then highlight the information you would need to know and the process to follow to determine the taxable status of this property.

The subject property in our example is a large facility in Ourtown, Alberta. It consists of **a museum, a gift shop and a licenced dining area**. This property is owned by the Museum Foundation, which is a non-profit organization incorporated under the Societies Act. The museum and the gift shop are operated by the Museum Foundation and the licenced dining area is leased out to a private individual.

In order to address what is to be taxed and what is to be exempted in 1998 we need to start by asking if this property might be eligible for exemption under section 362(n) of the MGA and the Community Organization 1998 Property Tax Exemption Regulation. In this case, the answer is an easy "yes" because of the museum (and only the museum, because neither gift shops nor licenced dining areas are normally exempt).

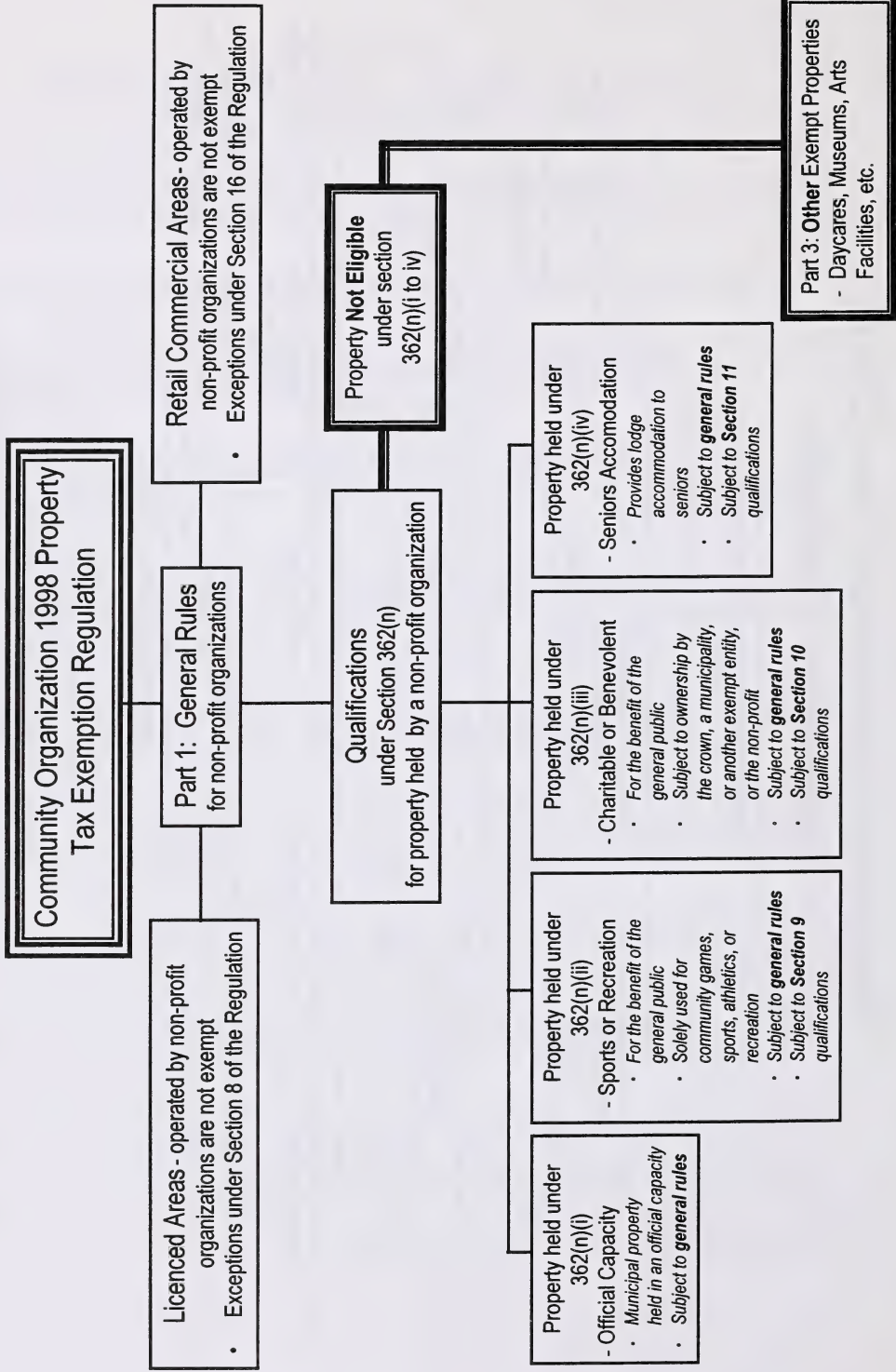
Property Exemption Flow Chart

- Legislative Authority



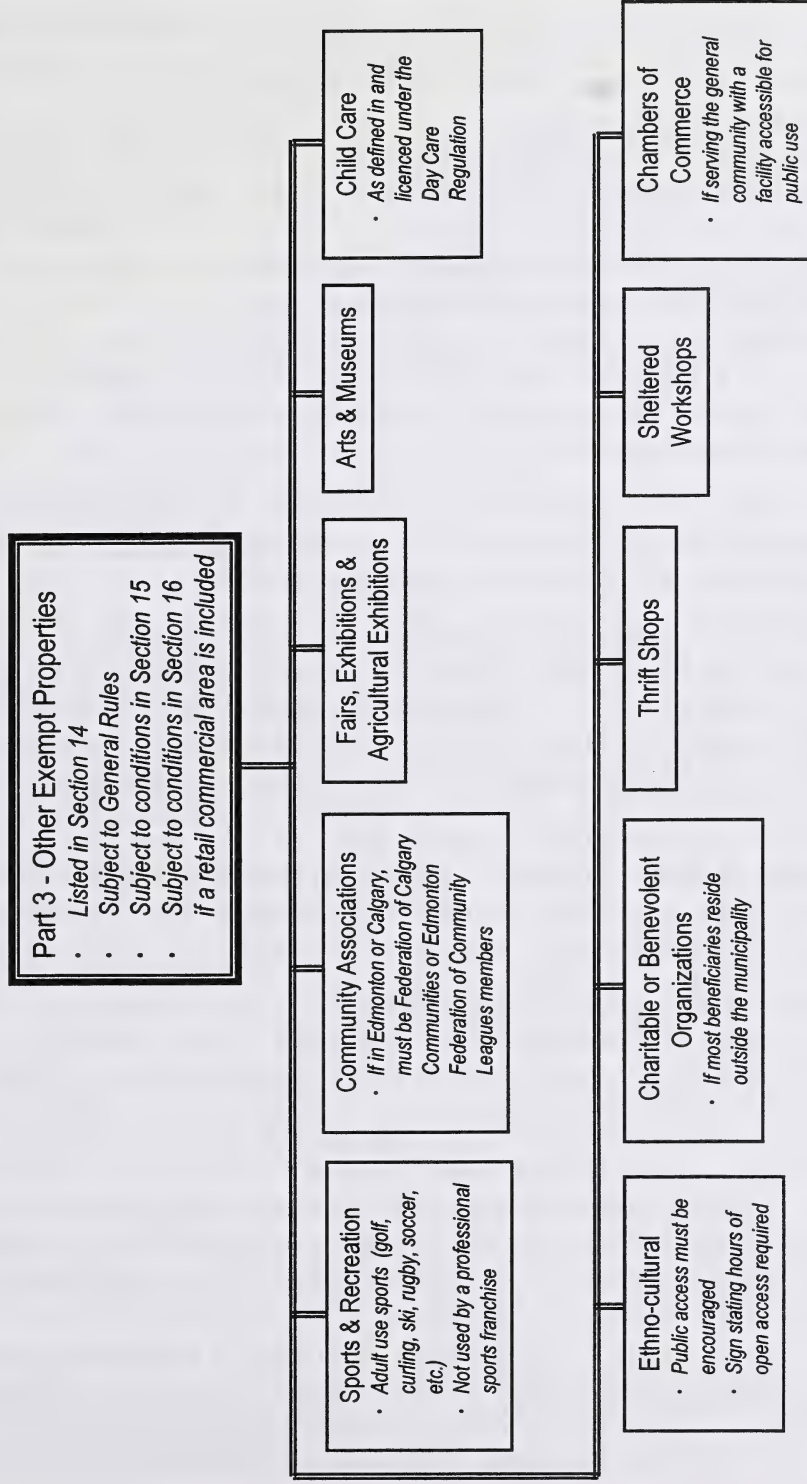
Property Exemption Flow Chart

- Section 362(n) Properties



Property Exemption Flow Chart

- Other Exempt Properties



The next step would be to look at the general rules in the regulation **as they apply to the museum** (which is the potentially qualifying facility in our example). To be exempt the facility must meet **both** of the following tests:

- Is the museum held by a non-profit organization? The Museum Foundation is incorporated as a society under the Societies Act, so it meets the requirements for a non-profit organization under section 6 of the Community Organization 1998 Property Tax Exemption Regulation. As the Museum Foundation owns the property and operates the museum, it also meets the requirements for holding the facility under section 5 of the Regulation.
- Is the use qualifying for an exemption the primary use of the property? The answer to this question is likely simple as well, since most museums are not often used for non-museum purposes. 90 to 100 percent use clearly exceeds the 60 percent use requirement.

These general conditions are not very different from the comparable conditions in the previous Non-Profit Organization Tax Exemption Regulation, so they should not pose new problems to the exemption determination process.

However, the next step does involve something new. Before the approval of the Community Organization 1998 Property Tax Exemption Regulation, the usual way to exempt a museum held by a non-profit organization would be to decide that it served a "purpose beneficial to the community" (to quote from the definition of "charitable or benevolent purpose"). This would permit an exemption under section 362(n)(iii) of the MGA if all of the conditions of the Act and the Non-Profit Organization Tax Exemption Regulation were met. But now section 14 of the Community Organization 1998 Property Tax Exemption Regulation specifically identifies museums as one of the new categories eligible for an exemption if the requirements of section 15 are met.

This new provision poses a choice rather than requiring a change. A non-profit museum that is already exempt under section 362(n)(iii) of the Act can be left there and there is nothing preventing new approval under this section. Indeed, if the Museum Foundation did not apply to the municipality for an exemption under section 15 of the new Regulation, the only way this museum could be exempted would be by deciding that the facility qualified for an exemption under section 362(n)(iii). Since the Museum Foundation owns the property, it can qualify under section 362(n)(iii)(B) of the Act. We then turn to the specific requirements of the Regulation for an exemption under section 362(n)(iii). These specific requirements are given in section 10:

- (a) Does the museum (the charitable or benevolent purpose the property is primarily used for) benefit the general public in Ourtown (the community in which the property is located)? **The answer to this is a judgement call by the assessor.** Public benefit usually requires providing resources, services, or

access to facilities to a large segment of the population, or else providing resources, services, or access to facilities to one or more disadvantaged groups. However, it is usually felt that the resources, services, or facility access involved should be of significant value to the community (significant enough to warrant an exemption from property taxes) and this must be a judgement by the assessor after taking the views of the local community into consideration.

- (b) Are the resources of the Museum Foundation (which owns the property) directed chiefly to the museum (the charitable or benevolent purpose for which the property is used)? The answer to this question is presumably yes, since the Museum Foundation is not a multipurpose organization.
- (c) Is access to the facility restricted for more than 30 percent of the time? If like most museums the one restriction is a minor admission fee, the access is **not** restricted under the requirements of section 7 of the new Regulation.

Some museums can (and have) met the above tests and have been exempted under section 362(n)(iii). Other jurisdictions have used section 362(n)(i) as their authority, but that provision does not apply here because section 362(n)(i) only applies to property owned by the municipality.²⁵ So let us look at what might happen if the Museum Foundation applies for an exemption under section 15 of the Community Organization 1998 Property Tax Exemption Regulation. The Museum Foundation would be entitled to apply under section 14(e) to make such an application to the municipality. However, the municipality is only obliged to consider such an application, **not** to approve it.

The Museum Foundation would have to meet the specific requirements of section 15 of the Regulation in its application. The application deadline is April 30 and supporting information required by the municipality is due a month later (although the application deadline can be waived). The facility must be operated on a non-profit basis and meet the access requirements of section 15(2).²⁶ As well, the municipality can require that the facility not provide significant competition with a taxable business, that the organization's funds be chiefly used for the purposes of the organization, and that it (the municipality) be satisfied that the operations of the non-profit organization provide significant benefits.

The last criterion in particular will be subject to interpretation and will involve a judgement call on behalf of the municipality. **The municipality must decide from its own perspective whether or not the operations of the subject property provide significant enough benefits to warrant an exemption from property taxes.**

²⁵ Some jurisdictions have even used section 362(n)(ii) to exempt museums, but this would probably not be an appropriate provision now that the section 362(n)(ii) exemption is limited to sports or recreation facilities primarily serving children.

²⁶ Access to the facility cannot be restricted more than 30 percent of the time.

As well, if the municipality grants an exemption it may make it subject to an agreement under section 15(4) that the non-profit organization will provide information on its compliance with the exemption requirements. Because the Museum Foundation owns the property, the municipality could even require an agreement under section 15(5) on the disposition of the property. **However, such agreements may be more trouble than they are worth unless the property in question is quite valuable and the longer term intentions of the non-profit group holding the property are in doubt.** Eight sample application forms are shown in **Appendix C**, seven requiring a lot of information and one requiring much less detail. Which one (if any) should be used as a model depends on the preferences of the municipality and the use and other features of the non-profit facility in question.

However, deciding on whether to tax or exempt the museum is not the whole job. There are two distinct retail commercial areas within our example property. The first area is the gift shop and the second area is the licenced dining area. If the Museum Foundation qualifies as an exempt facility then the retail commercial areas within this facility can therefore also be considered for an exemption.

The gift shop area is run by the Museum Foundation and is therefore held by and operated by the same non-profit organization that holds the exempt facility (if the museum's exemption is granted by the municipality). The other requirement is that the net income from the retail commercial area must be used to pay all or part of the operational or capital costs of an exempt facility held by the Museum Foundation. In the example, if the net income from the gift shop is being used to help fund the operations of the museum then the gift shop area can also qualify for an exemption.

However, the licenced dining area in our example can quickly be disqualified from receiving an exemption as it is held by a taxable owner under a lease from the Museum Foundation. Even if the area were held by the Museum Foundation it would be taxable unless it was a Class C licenced facility (restricted to members and guests only).

In summary, the subject property can be split into two categories for taxation purposes. The first is the exempt portion (assuming that the municipality grants this organization an exemption), consisting of the museum area and the gift shop area, and the second is the taxable portion consisting of the licenced dining area.

A similar approach can be used for other properties where a detailed analysis of their taxation status is required.

Appendix E:

Interpretation of Municipal Government Act Tax Exemption Provisions

Section 351 - Non-taxable property

Interpretation	Section 351 of the Act outlines properties that are not taxable. Included are those listed in section 298 of the Act (non-assessable property).
Comments	Any property that was tax exempt before January 1, 1995, under a private act or a Local Authorities Board Order is still tax exempt unless canceled by municipal bylaw, provided that conditions of the exemption are still met.

Section 361 - Exemptions based on use of property

Interpretation	This section outlines those properties which are exempt from taxation because of their use. This use exemption covers reserves (environmental reserves, municipal reserves, etc.) and undeveloped property reserved for public utilities. It also covers residences and farm buildings to the extent prescribed in the regulations.
-----------------------	---

Section 362 - Exemptions for government, churches, and other bodies

Interpretation	In general this section of the Act exempts from taxation most property held by the federal and provincial government, municipalities, educational institutions, religious bodies, and other organizations that use the property for public service, charitable or benevolent purposes.
Comments	Subsection 362(n) addresses property held by non-profit organizations and is clarified by the Community Organization 1998 Property Tax Exemption Regulation. The components of 362(n) are as follows:

Section 362(n)(i)

Interpretation

All or part of a property that a non-profit organization holds in an official capacity for a municipality is exempt from property taxes. This is subject to the applicable conditions of the new Regulation.

Section 362(n)(ii)

Interpretation

All or part of a property used by a non-profit organization solely for community games, sports, athletics, or recreation and for the benefit of the general public is exempt from property taxation. This is subject to the applicable conditions of the new Regulation.

Section 362(n)(iii)

Interpretation

All or part of a property owned by the Crown, a municipality, another exempt entity, or a non-profit organization and used for charitable or benevolent purposes by a non-profit organization holding the property is exempt from property taxation. This is subject to the applicable conditions of the new Regulation.

Section 362(n)(iv)

Interpretation

Senior citizen lodge accommodation as defined by the *Alberta Housing Act* and held by a non-profit organization is exempt from property taxation. This is subject to the applicable conditions of the new Regulation.

362(n) Other

Interpretation

Other property held under section 362(n) that meets qualifications outlined in the Act **must also meet the requirements established in the regulation. Look at Part 3 of the Community Organization 1998 Property Tax Exemption Regulation.**

Section 363 - Exempt property that can be made taxable

Interpretation This section gives a municipality, by way of municipal bylaw, the authority to tax property exempted from taxation by section 363 of the Act (Ducks Unlimited, hostelling association, veterans association, and student dormitory property), to any extent that council feels appropriate. The affected group must be notified of the municipality's intent to pass such a bylaw and the bylaw does not take effect until a year after it is passed.

Section 364 - Exemptions granted by bylaw

Interpretation This section gives a municipal council the authority, by bylaw, to exempt manufacturing machinery and equipment and/or property held by a non-profit organization from property taxation. This exemption can be to any extent council feels appropriate although the municipality is still responsible for the school requisition on any property it exempts.

Section 365 (1) - Licensed premises

Interpretation Despite exemptions provided elsewhere in the MGA, premises licensed under the *Gaming and Liquor Act* are not exempt from taxation.

Section 365 (2)

Interpretation The portion of a facility with a Class C or special event liquor license which meets the exemption qualifications outlined in section 362(n)(ii) or (iii) and section 8 of the Community Organization 1998 Property Tax Exemption Regulation is exempt from property taxation despite subsection 1.

Business Tax Exemptions

Section 372 - Taxable business

- | | |
|-----------------------|---|
| Interpretation | This section enables the municipal council to pass a bylaw imposing a tax on all businesses operating in the municipality, except those exempted by that bylaw. |
| Comments | Property or businesses identified in sections 351, 375, and 376 of the Act are not subject to business taxation. |

Section 375 - Exempt businesses

- | | |
|-----------------------|--|
| Interpretation | This section outlines those businesses that are exempted from business taxation under Division 3 of this Part of the Act. These include Crown businesses and airports operated by a regional airport authority or by a municipality. |
|-----------------------|--|

Section 376 - Exemption when tax is payable under Division 2

- | | |
|-----------------------|--|
| Interpretation | Business premises containing either machinery and equipment or linear property are exempt from business taxes if the machinery and equipment or the linear property are subject to property taxes, and if the chief business activity on the premises is operating this machinery and equipment or this linear property. |
|-----------------------|--|

Appendix F:

Relevant Municipal Government Board Decisions

All of the Municipal Government Board appeals listed here were regarding decisions made **before** the Community Organization 1998 Property Tax Exemption Regulation took effect. If these appeals had been heard under the provisions in the new Regulation, the Municipal Government Board **might have reached a different conclusion on some of these matters.**

Board Order: MGB (66/96)

Ottewell Curling Club vs. The City of Edmonton

In hearing an appeal by the Ottewell Curling Club, the Board found that the club was not exempt under section 362(n)(iii) of the MGA and AR 125/95.

Although the club is a non-profit organization, the Board was not convinced that the property is used solely for community games, sports, athletics, or recreation for the benefit of the general public. The fact that there is a liquor lounge, a banquet facility used for various functions, and a retail outlet negates the use of the words "used solely."

The Board's opinion was that the property is held "firstly" for the benefit of the shareholders and to satisfy the interests of curlers. That it may be held for the benefit of a wide range of individuals or groups is incidental.

With respect to this case, the Board was satisfied that the provisions of the repealed Municipal Taxation Act are not identical to the provisions of the Municipal Government Act.

Board Order: MGB (81/96)

CKER Radio vs. The City of Edmonton

In hearing an appeal by CKER Radio, the Board found that the portion of the property leased by the Royal Canadian Legion Strathcona Branch No. 150 is exempt from taxation under section 363(1)(c) of the MGA.

The Board found that the section was written specifically to exempt the Royal Canadian Legion from taxation. Although the section of property leased by the Legion is used for The South Side Legion Amateur Boxing Club, the club is "held by and used in connection with" a branch of the Royal Canadian Legion, and is therefore exempt.

Board Order: MGB (94/96)

The Evangelical Housing Society vs. The City of Medicine Hat

In hearing an appeal by the Evangelical Housing Society, the Board found that the Society is not exempt under section 363 of the Act and section 2 of AR 363/94.

Although the Evangelical Housing Society is a non-profit organization, its Chinook Village congregate living units do not meet the requirements under the Act and Regulation to qualify for exempt status as senior citizens' accommodation. Residents are ambulatory and rely only in part on personal services that the Village provides. The Housing Society does not receive donations for capital costs. The services provided are paid for by the residents. As well, Chinook Village is not subsidized lodge accommodation as defined under the Alberta Housing Act.

Board Order: MGB (114/96)

Head-Smashed-In Gift Shop Ltd. vs. The Municipal District of Willow Creek No. 26

In hearing an appeal by the Head-Smashed-In Gift Shop Ltd., the Board found that the shop is not exempt from taxation under AR 125/95.

The Board did find that the shop is important to the successful operation of the Centre, which is owned by the province, and is so closely controlled and regulated by the Friends of the Head-Smashed-In-Buffalo-Jump Society (which is exempt) that a relationship of agency exists between the two.

However, the Board also found that the shop is used for business purposes that compete with businesses that are subject to taxation, which is why it does not qualify for exemption under AR 125/95 and section 363(n)(iii) of the MGA.

Board Order: MGB (123/96)

Frank Ducharme vs. The Municipal District of Willow Creek No. 26

In hearing an appeal by Frank Ducharme, proprietor of a cafeteria in the Head-Smashed-In-Buffalo-Jump Interpretive Centre, the Board found that the cafeteria is not exempt from taxation under AR 125/95 and section 362(n)(ii) and 362(n)(iii) of the MGA.

The Board did find that the cafeteria is important to the successful operation of the Centre, which is owned by the Province of Alberta. It also found that the cafeteria is closely controlled and regulated by the Friends of the Head-Smashed-In-Buffalo-Jump Society (which is exempt), so that a relationship of agency exists between the two.

However, the Board also found that the cafeteria does compete with other businesses that are subject to taxation, which is why it does not qualify for an exemption under section 362(n)(ii) and 362(n)(iii) of the MGA and AR 125/95.

Board Order: MGB (130/96)

The Edmonton Rugby Union vs. The City of Edmonton

In hearing an appeal by the Edmonton Rugby Union, the Board found that the property is exempt under section 362(n)(ii) of the MGA and AR 125/95.

The Edmonton Rugby Union is a non-profit organization formed to provide a facility to play rugby and encourage participation in the sport. The general public is actively encouraged to use the facilities, which are also open to school teams at no charge. Nominal fees, when applicable, can be waived in lieu of volunteer work.

The facilities are guaranteed to be accessible to the public because an encumbrance on title requires that the clubhouse be open to the public at least 50 percent of the time it is in operation. The playing fields and related facilities are also open to the public for a nominal fee; the only restriction here is whether that specific part of the facility is being used.

While it may be argued that the property is designed as a single-use facility, the Board heard evidence that it is used for other sports such as cricket and soccer.

The clubhouse, an integral part of the facility, is open to the public except when rented for private social functions. The social aspect of such a facility is recognized in the legislation, which allows an exemption for property holding a Class "C" license under the Liquor Control Act. The legislation clearly envisioned social functions as an important benefit that sports facilities provide to the general public.

Although the legislation excludes property used for business purposes that compete with any business that is subject to taxation, the Board was not convinced that renting the clubhouse constitutes competition; generally when the clubhouse is rented, its use is singular in nature and related to the specialized nature of the facility.

The Board found that the property is used solely for community games, sports, athletics, or recreation for the benefit of the general public; minor use for social activities is not sufficient to negate the benefit to the community and the overall use is substantial to the meaning of the legislation.

Board Order: MGB (136/96)

Grande Prairie Gymnastics Society (Gymniks) vs. City of Grand Prairie

In an appeal by the Grande Prairie Gymnastics Society (Gymniks), the Board found that the Society is exempt under section 362(n)(ii) of the MGA and AR 125/95.

The property is used solely for community games, sports, athletics, and recreation for the benefit of the general public. Although the property is designed as a single-use facility, the Board heard evidence that it is also used for other activities. The general public is encouraged to use the facility, which is open to schools at no charge. Nominal fees charged in other instances can be waived in lieu of volunteer work.

Board Order: MGB (145/96)

Alberta Bingo Suppliers Ltd. vs. The City of Edmonton

In hearing an appeal by the Alberta Bingo Suppliers Ltd., the Board found that the United Bingo Association does not qualify for an exemption under section 362(n)(ii) of the MGA.

Although The United Bingo Association (TUBA), a non-profit organization, is leasing a portion of the property, the property is not used solely for community games, sports, athletics, or recreation. Bingo is a form of gambling regulated by the Alberta Gaming Commission and is not a community game for the benefit of the general public. In short, the property is used for business purposes and competes with other businesses that are subject to taxation, and thus it does not qualify for an exemption.

Board Order: MGB (152/96)

Walterdale Theatre vs. City of Edmonton

In hearing an appeal by the Walterdale Theatre Associates (WTA) on March 12, 1996, the Municipal Government Board declared the WTA exempt from City of Edmonton (City) property taxes under section 362(n)(i) of the MGA and section 4 of AR 125/94 (MGB Order 91/96).

The Board accepted evidence that the WTA is a non-profit organization operated by volunteers. The WTA leases a building from the City of Edmonton for \$1 a year. The building is a Registered Historical Site. In the opinion of the Board members, the terms of the lease go far beyond a normal landlord-tenant arrangement. The City has, in effect, placed the WTA in charge of preserving an historic building on the municipality's behalf, which could be viewed as making the property eligible under section 362(n)(i) of the Act.

However, the City then asked that the exemption be rescinded because it had argued only against exemption under section 362(n)(ii), since it felt this would be the only section where the WTA could argue for an exemption. The Board agreed to rehear the appeal.

At the June 26, 1996, hearing, the City argued the question of the WTA's being exempt under section 362(n)(i). At that time, the MGB found that the WTA was not exempt because there is no clear evidence that the organization has an agreement with the City which confers official capacity in managing the Walterdale Playhouse, nor has it been given official capacity in the lease for the Playhouse.

Board Order: MGB (170/96)

The Victoria Soccer Club vs. The City of Edmonton

In an appeal by the Victoria Soccer Club, the Board found that the land is exempt under section 362(n)(ii) of the MGA. The Board also found that the appeal in respect to the improvement assessment is allowed, in part due to restrictions in AR 125/95. The assessment is set at \$48,230.

The property is operated by a non-profit organization, is open to the public with little or no restrictions, and is used solely for community games, sports, athletics, or recreation for the benefit of the general public, which is encouraged to use the facility. Although the club was formed primarily to provide a facility to actively encourage participation in soccer, the Board heard evidence that the facility is used for other activities.

The clubhouse, an integral part of the facility, is open to the public except when rented for social functions. The legislation recognizes the social aspect of such a facility by allowing an exemption for property holding a Class "C" license under the Liquor Control Act. The legislation clearly envisioned social functions as an important benefit that sports facilities provide to the general public.

Any activity not directly related to playing a sport can be captured under the heading of "recreation," as that is part of the community aspect of the activity. In regard to the question of "solely," the Board's opinion was that some minor use for private social functions is not sufficient to negate the benefit to the community; the overall use is substantial to the meaning of the legislation.

Board Order: MGB 190/96

The City of Edmonton vs. Hungarian Cultural Society

In hearing an appeal by the City of Edmonton, the Board found that the Hungarian Cultural Society is not exempt under section 362(n)(ii) and 362(n)(iii) of the MGA, and AR 125/95.

The Society, which holds the property, is a non-profit organization, but the Board found that the property is not used solely for community games, sports, athletics, or recreation for the general public. A number of activities conducted on the property fall outside the uses enumerated in section 362(n)(ii), which is why the property does not qualify for an exemption under the section.

The Board also found that the property is not used for purposes that are either charitable or benevolent, nor can the majority of the society's activities be regarded as for the benefit of the general public, as the activities relate to a specific cultural group. For those reasons, the property does not qualify for the exemption under section 362(n)(iii) and AR 125/95.

Board Order: MGB (198/96)

The City of Edmonton vs. Ukrainian Youth Unity of General Taras Shuchewych

In an appeal by the City of Edmonton, the Board found that the Ukrainian Youth Unity of General Taras Shuchewych (UYU), is not exempt under section 362(n)(ii) and 362(n)(iii) of the MGA.

UYU is a non-profit organization, but activities conducted on its premises fall outside those specified in section 362(n)(ii) of the MGA, which is why it does not qualify for an exemption under this section.

UYU does not qualify for an exemption under section 362(n)(iii) because the property is not used for charitable or benevolent purposes and the organization's activities are for a specific cultural group, not the general public.

The UYU appealed this decision to the Court of Queen's Bench, which directed the MGB to rehear this appeal. To date this appeal has not been reheard by the MGB.

Board Order: MGB (199/96)

The City of Edmonton vs. Polish Combatants

In hearing an appeal by the City of Edmonton, the Board found that the Polish Combatants (Edmonton) Society, Polish Veterans Society, and Polish Canadian Society, were not exempt under section 362(n)(ii) and section 362(n)(iii) of the MGA, or AR 125/95.

The Board found that the property is used for many purposes and is not limited solely to community games, sports, athletics, or recreation for the general public; many uses fall outside those enumerated in section 362(n)(iii), which is why the property does not qualify for an exemption under that section.

The Board also found that the property is not used for charitable and benevolent purposes that benefit the general public; rather, its uses relate specifically to Polish cultural groups. For those reasons, the property does not qualify for exemptions under section 362(n)(iii) and AR 125/95.

Board Order: MGB (200/96)

The City of Edmonton vs. German Canadian Cultural Association

In hearing an appeal by the City of Edmonton, the Board found that the German Canadian Cultural Association (Edmonton) is not exempt under section 362(n)(ii) and section 362(n)(iii), or AR 125/95.

Although the German Canadian Cultural Organization, which holds the property, is a non-profit organization, the Board found that the property is not used solely for community games, sports, athletics, or recreation for the general public, as enumerated in section 362(n)(ii). As a result, the property does not qualify for an exemption under that section.

The Board also found that the property is not used for charitable and benevolent purposes that benefit the general public, but that its activities relate to a specific cultural group. For these reasons, it does not qualify for an exemption under section 362(n)(iii) or under AR 125/95.

Board Order: MGB (28/97)

Calgary Curling Club vs. The City of Calgary

In hearing an appeal by the Calgary Curling Club, the Board found that the club was not exempt under section 362(n)(iii) of the MGA and AR 125/95.

Although the club is a non-profit organization, and most of the property is used solely for community games, sports, athletics or recreation, the Board could not agree that these are for the benefit of the general public. To the extent that the subject is a single use facility, the Board was not convinced that a facility dedicated to those individuals who had an interest in curling sufficiently encompassed the "general public" to allow an exemption under section 5(2)(a) of Alberta Regulation 125/95, which states that a property is not exempt from taxation if "the property is used to

satisfy the interests of an individual or group of individuals that has a specific interest or objective”.

Board Order: MGB (51/97)

The City of Edmonton vs. The Catholic Archdiocese of Edmonton

In hearing an appeal by the City of Edmonton, the Board found that only one third of the church hall should remain tax exempt having regard for the provisions of the MGA.

While the activities of the parish are to be commended in maintaining the parish as the focal point for the Italian community, the Board had to decide the matter based on the actual use of the property and how it relates to the limitations of the legislation. The use of the property is a mixture of religious, community, cultural and social activities and, when taken as a whole, mirror the activities expected of most cultural organizations.

In order to qualify for an exemption the chief use must be divine service, public worship or religious education. The evidence shows these uses to be limited within the context of the day to day activities associated with the hall. While the church is involved in a majority of the activities, this involvement is more within the social context or the fund raising activities of the community. These activities cannot be seen as either divine service or public worship within the meaning of the Act. With regard to religious education, the City has conceded that part of the premise is devoted to this function. This was recognized by the City in granting the one third exemption to the basement level of the hall. The Board agreed with the City of Edmonton that this is an appropriate exemption.

Board Order: MGB (96/97)

Tim Horton Children's Foundation Inc. vs.

The Kananaskis Improvement District No. 5

In hearing an appeal by the Tim Horton Children's Foundation Inc., the Board found that the property falls within the requirements of section 362(n)(iii) of the MGA and AR 125/95.

The Board found that the evidence indicates the Foundation is a non-profit organization. The surplus funds are intended for construction of additional facilities that further the objectives of the Foundation, and this does not negate its non-profit status. The property is used for a charitable or benevolent purpose that is for the benefit of the general public. In this case, the Board was of the opinion that the general public benefits indirectly through the increased social awareness and

experience provided to the participant children at a formative stage in their lives that will enable them in the future to make a greater contribution to society.

With respect to the non-summer use of the property, this use forms a very small percentage of the total use, with the property being chiefly used for the summer resident and day camp program. The non-summer use of the property is related to fund raising, or increasing public awareness. Fund raising and securing donations are a necessary component of the activities of a charitable organization and therefore the non-summer use is part of the charitable or benevolent purpose of the property.

Board Order: MGB (114/97)

Manning and District Ski Club vs. Municipal District of Northern Lights No. 22

In hearing an appeal by the Manning and District Ski Club, the Board found the property to be exempt under section 362(n)(ii) of the MGA and AR 125/95.

At issue before the Board was whether or not the subject property competes with a business that is subject to taxation and whether the property is used to satisfy the interests of an individual or group of individuals having a specific interest or objective. In answer to the first question, the Board was of the opinion that any interpretation of "competition" must be reasonably applied within the context of location and level of service. The nearest privately operated ski hill is Edson-Hinton requiring approximately five to six hours travel time. Further, the level of service provided by the subject can be described, at best, as minimal. Given the level of service and the extreme distance from the nearest privately operated ski hill it is difficult to imagine the subject providing competition to a commercial ski hill with the attendant equipment and variety of runs required to attract sufficient skiers to be economically viable.

With regard to the actual use, it is operated as a ski hill by a community based group. In addition, the Board heard evidence that the actual use is not solely limited to downhill skiing, but also includes cross country skiing and snowmobiling. The Board was of the opinion that given the organization is community based providing a wide range of winter based activities. Its objectives encompass the whole sphere of seasonal recreation that is to the benefit of the general public.

Board Order: MGB (125/97)

The Edmonton North East Bingo Association vs. The City of Edmonton

In hearing an appeal by The Edmonton North East Bingo Association, the Board found the property to be not exempt under section 362(n)(iii) of the MGA and AR 125/95.

The Board found that Bingo is a gaming and recreational activity. The portion of the building used as a Bingo facility is not being used for charitable or benevolent purposes.

The member organizations are providing desirable and, in some cases, charitable services. However, many of the organizations focus their activity on recreation, cultural and athletic activities. Therefore these organizations do not confer exempt status to the building and the appeal for exemption is denied.

Board Order: MGB (126/97)

The Edmonton Chinatown Multicultural Centre Foundation vs. The City of Edmonton

In hearing an appeal by The Edmonton Chinatown Multicultural Centre Foundation, the Board found the property not exempt under sections 362(m) and 362(n)(iii) and (iv) of the MGA.

The Board found that the Foundation is not a management body that meets section 362(n)(iv) of the Act. There is no Ministerial Order that designates the Foundation as a "management body" as provided in the Alberta Housing Act, 1994, section 5(1).

No evidence was produced to show that the Corporation has designated the Centre as "amenity space for the existing or future senior citizens' self-contained units," contemplated as an option in the Management Agreement. The Centre therefore remains a cultural centre as described in the agreement. The Centre is covered by a Management Agreement which does not include the two residential towers. There are no residential units in the Centre, nor does the Foundation operate senior citizens' self contained residential units.

The Management Agreement provides the Foundation with a clearly defined interest in the property. The primary trust of the programs offered at the Centre are cultural in nature. Although the programs are of benefit to the community they are not provided for charitable or benevolent purposes. Many of the programs offered are provided on a cost recovery basis. The Foundation provides reduced fees for indigenous persons only.

The Board concluded that the Foundation is not an agent of the Crown nor is it a body managing senior citizens' subsidized apartments and therefore falls outside sections 362(m) and 362(n)(iv) of the Act. The Foundation has an interest in the Centre that is distinct from the interest of the Crown and the programs available in the Centre are not for charitable or benevolent purposes for the benefit of the general public, as provided for in section 362(n)(iii) of the Act.

Board Order: MGB (136/97)
Red Deer Curling Club vs. City of Red Deer

In hearing an appeal by the Red Deer Curling Club, the Board found the property to be exempt from taxation under section 362(n) of the MGA and AR 125/95 except for a small leased out commercial retail area.

The Board was of the opinion the use of the property is for community recreation that benefits the general public. This is based upon the lease agreement between the Red Deer Curling Club and the City of Red Deer. The terms of the agreement specifically direct that members of the public have unrestricted access to the facilities. Any breach of this condition is a breach of the lease agreement. As a further indication of the benefit to the general public was the support of the City in financing the construction of the facilities. While the property can be said to be operated by a private group, the group is a non-profit organization operating to the benefit of the community as indicated by the ongoing involvement of the City of Red Deer.

Regarding the use of the facilities solely for curling, the Board gave careful consideration to the meaning and intent of the Regulation as it pertains to specific interest or objective. A very narrow application would preclude most, if not all, sport and recreation facilities from qualifying for an exemption. It is impossible to expect that the activities and objectives related to any specific facility would appeal to every member of the community. Therefore, the test must be based on the restrictive nature of the objectives of the endeavours undertaken in the facilities.

The subject property is open to use by every member of the community. While the principal endeavour is curling, the objectives do not limit use to only those having narrow interest, but to a greater interest in public recreation. It would be expected that the level of play extends from teaching and fun recreational leagues to the more intense competitive leagues. With no restrictions on the level of play, it cannot be said to serve a specific interest or objective. Further, the terms of the lease agreement provide that the facilities can be used for such other purposes as the City may agree to in writing.

The Board was in agreement with the City of Red Deer that the exemption cannot extend to the retail operation. The retail space is occupied by a for profit operation and must remain taxable.

Board Order: MGB (137/97)

Uwe Welz Professional Corporation on behalf of

German Canadian Culture Association (Edmonton) vs. The City of Edmonton

In hearing an appeal by the Uwe Welz Professional Corporation on behalf of German Canadian Culture Association (Edmonton), the Board found that the part of the total assessment under appeal is not exempt under section 362(n)(ii) of the MGA and AR 125/95.

The Board found that the Appellant Association bylaws specifically state that the objective of the Association is to preserve the heritage and culture of all persons of German language usage and origin and in 1996 the charter did have a voting membership restriction, which limited voting to those of German heritage.

The Act requires that the property be used for the benefit of the general public. The appeal fails in this regard because the only areas that the general public have access to are the lower level development and the restaurant, and in both cases, they can only be admitted as guests.

The MGA, section 362(n)(ii) directs that the property be used "solely for community games, sports, athletics, or recreation for the benefit of the general public." The evidence before the Board did not support this criteria.

The subject property is not available to the general public, as a whole, because membership is a prerequisite for use of the facilities, including rental of various areas of the property. The evidence indicated that the general public rarely walk in off the street to participate in activities.

Board Order: MGB (175/97)

Balmoral Curling Club vs. the City of Edmonton

In hearing an appeal by the Balmoral Curling Club, the Board found that the property is not exempt from taxation under the MTA for the 1994 appeal and section 362(n) of the MGA for the 1995 appeal.

The Balmoral Curling Club is a non-profit organization controlled by the shareholders with regard to voting and share transfers. Participation by the general public can be denied at any time. The Curling Club is located on land leased from the City of Edmonton. The building is 35 years old, and has nine sheets of ice, an office, snack bar, kitchen, caretaker's suite, a pro-shop and a lounge. The club has unsuccessfully appealed for an exemption from assessment every year since 1990. The issue of this

appeal was whether the Club should be exempt from assessment for 1994 and 1995 under the provisions of the MTA and the MGA.

The use of the premises is mainly for the sport of curling to serve shareholders and others active in the sport. Although the facilities are open to the public and have some incidental users the Board finds that the facilities are not for the benefit of the general public.

The appeal was denied because of restricted use of the facility. The Club is used mainly for curlers and not solely used for community games, sports, athletics, or recreation activities for the benefit of the general public.

Board Order: MGB (32/98)

Wildwood and District Rod and Gun Club vs. MD of Yellowhead No. 94

In hearing an appeal by the Wildwood and District Rod and Gun Club, the Board found that the Club is exempt under section 362(n)(ii) of the MGA and AR 125/95.

The Club is a non-profit organization leasing land from the Crown. The property is used for numerous recreational activities. There are no restrictions as to membership, and the facilities are open to the general public, which is actively encouraged to use them for whatever purpose.

The facility is operated by a community based group. Given the level of service and the distance from the nearest operating gun club, it is difficult to imagine the subject providing competition to a commercial gun club with the attendant equipment and facilities required to attract sufficient shooters to be economically viable.

The Board was of the opinion that the organization is community based, that it provides a wide range of activities, and that its objectives encompass the whole sphere of seasonal recreation. All this is to the benefit of the general public.

Appendix G: Future Plans

It has been noted that the Community Organization 1998 Property Tax Exemption Regulation does not represent full implementation of the Non-Profit Tax Exemption Review Committee's recommendations. Some of the Review Committee's recommendations require legislative changes (scheduled for the 1998 spring session of the legislature).

Municipal Affairs has made a commitment to consult with stakeholders in drafting a long-term non-profit organization property tax exemption regulation in 1998 so that it can be in place for 1999. It is expected that the long-term regulation will be different from the Community Organization 1998 Property Tax Exemption Regulation in at least three main respects:

- (a) Section 8 is to be amended to cover areas with Class C and special event liquor licences or special event gaming licences²⁷ in all non-profit facilities exempt under section 362(n) of the Municipal Government Act.
- (b) Section 11 is to be amended to include the additional exemption provisions recommended by the Non-Profit Tax Exemption Review Committee. This would mean that seniors housing facilities which provide a high level of care and services **and** seniors housing facilities that provide a lodge level of services to low income residents would also become exempt from property taxes.²⁸
- (c) Section 15 is to be partly replaced by provisions to allow a municipality to cancel all or part of an exemption under section 362(n)(iii) of the Act or Part 3 of the Regulation by bylaw at its discretion, but with proper notice to the affected parties.²⁹

However, none of these changes are to take effect until 1999. As well, the proposed changes to section 8 and 15 cannot occur unless the underlying legislation is amended first.

²⁷ This means the following types of non-facility gaming licences: bingo licences, pull ticket licences, and casino licences. Facilities licenced to act as bingo halls or casinos on a continuing basis will **not** be exempted.

²⁸ There is a need for discussions with the non-profit groups operating these facilities and the affected municipalities about how best to implement the Non-Profit Tax Exemption Review Committee's recommendations on non-profit seniors housing facilities. Municipal Affairs will continue paying grants in place of taxes for qualifying seniors housing facilities in 1998.

²⁹ As well, the recommendation of the Non-Profit Tax Exemption Review Committee is that such a cancellation would not take effect until a year after the bylaw is approved.

For additional copies, contact

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